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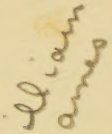

BY

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TO

GUSTAV SCHMOLLER

PROFESSOR OF POLITICAL ECONOMY
IN THE UNIVERSITY OF BERLIN,
HISTORIOGRAPHER OF BRANDENBURG

Dear Professor Schmoller,

To you I want to give myself the pleasure of dedicating this handful of essays and reviews. I have not always found it possible to agree with your opinions—with whose opinions would that be possible? And in reading some of your recent utterances about English policy in the eighteenth century, and indeed in times nearer our own, I must confess to a desire to criticise an epithet here and there. Yet I feel that for a dozen years I have received more stimulus and encouragement from your writings than from those of any other; encouragement in the effort, which academic and popular opinion renders so difficult, to be an economist without ceasing to be an historian. You have shown me by your example how to carry the historical spirit into the work of the economist, and the economic interest into the work of the historian.

The rivalries of Germany, Great Britain, and the United States are likely to be altogether economic in the century which is about to open, and economists are in evident danger of becoming the mouthpieces of national sentiment. We may be confident, notwithstanding, that scholars who have caught your spirit will never altogether lose the scientific temper, and also never quite forget that even powerful nationalities are but steps towards something better for humanity in the future.

Believe me sincerely yours,
W. J. ASHLEY.

PREFACE

The five and forty essays and reviews which make up this volume fall into a few well-marked groups. Two of the longest are devoted to the economic relations between England and her American colonies during the century from 1660 to 1760 : they aim at removing some misapprehensions which are even more persistent in England than in the United States ; and the second of them explains—for the first time, so far as I am aware—the true nature of the import trade of America. Their theme associates them with the preceding group of papers on the history of Economic Opinion, and especially with the essay on Tory Free Trade in the age of Sir Dudley North and Bolingbroke which deals with a forgotten chapter in the history of English political parties. The groups labelled 'Mediæval Agrarian' and 'Mediæval Urban' may seem at first sight of a somewhat specialist and archæological character. But I am convinced that no satisfactory conception can be attained of the course of social evolution without a more definite answer than historians have hitherto contented themselves with to certain fundamental questions concerning the

early Middle Ages. This is peculiarly true of land tenure; and it will be found that even the origins of municipal government cannot be intelligently dealt with without a working hypothesis as to the extent and meaning of serfdom in the open country. A time will come, no doubt, when the theory of the Mark and of the Free Village Community will be looked back upon as a curious aberration in historical scholarship, due to the unsuspected influence of contemporary political liberalism. Meantime the group of papers which approach that subject from various sides may still serve the purpose of clearing the ground; and a comparison of the results, or non-results, of recent investigation in Germany, France, Wales, India, Central Asia, and Japan may help to correct the mischief wrought by 'the comparative method.' At the opposite pole of interest, as it may appear, are the papers on Industrial Organisation in our own time; I can only hope that they will illustrate the application of the historical spirit to the burning questions of the day. It should tend towards patience and charity, if not towards ready 'solutions.'

I have prefixed my lecture of eight years ago on economic history as an academic study, and find little in it that later events make me wish to alter. In a pendant to it, more recently written, I have said something about the dispute, too noisy of late in Germany, about 'the materialistic conception' of history. Towards the end of the volume I have placed a small sheaf of biographical papers which will

explain themselves. From what I have said of Toynbee it will be seen that in my judgment the genius of Mrs. Humphry Ward has succeeded better in realising the sort of man he was than some of those who stood nearer to him in his lifetime. I have ventured to add a group of papers on academic life and organisation. The development of American universities has reached a point where German influence is waning and English example will make itself felt either for good or for evil. German universities have shown themselves of late not above learning from America; and there is possibly something that Harvard can teach Oxford.

Two of the longer and a few of the shorter papers have not before been printed; the rest have appeared in different reviews and journals during the last eleven years, and necessarily retain the marks of their diverse origins. An analytical table of contents will facilitate their perusal and indicate their interrelation.

Smith's Cove, Digby, Nova Scotia:
August 1900.

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PRELIMINARIES

ON THE

STUDY OF ECONOMIC HISTORY[1]

The teacher in England or America who seeks to explain his attitude towards economic science does so at the present time under peculiarly favourable conditions. There reigns just now a spirit of tolerance and mutual charity among political economists such as has not always been found within their circle. It is not that we have returned to the confident dogmatism and unanimity of the last generation — of the period which extended from the publication of John Stuart Mill's treatise to the sounding of the first note of revolt in Cliffe Leslie's essays. It is rather that, though there are still marked divergencies, the followers of one method no longer maintain that it is the *only* method of scientific investigation; that, on the contrary, the believers in induction now recognise more fully the value of deduction; that the most abstract sometimes refer to facts and the most concrete occasionally make use of abstraction; and, what is far more important, that they are inclined, whatever their own turn of thought may be, to let others

[1] [An Introductory Lecture delivered before Harvard University, January 4, 1893, on entering upon the Professorship of Economic History. Printed in the Harvard *Quarterly Journal of Economics*, January 1893; and translated into German in the *Beilage zur Allgemeinen Zeitung* (Munich), July 11 and 12, 1894.]

alone who walk not with them, or even to cheer them on their way in the benevolent hope that they may arrive at something worth the getting. It has now become almost a commonplace even with economists of the older school that students may usefully be led to work in different ways, owing to 'varieties of mind, of temper, of training, and of opportunities.'[1] In England an association has at last been founded which includes among its members most of those writers and teachers who are seriously interested in economics, and a journal has been established which welcomes contributions from every side with admirable impartiality. In America an association, which has for some years been doing excellent work, but which has hitherto been a little one-sided in its membership, has just widened its borders, and brought in even those against whose teachings it was once its business to protest. The controversies which break the monotony of life for our German colleagues have now but a faint echo among English-speaking economists; the personal antagonisms which separate French schools are altogether absent; and to most of us the recent exchange of hostilities between two distinguished English economists has seemed almost an anachronism. It is therefore with something of trepidation that I venture upon what may possibly look like a renewal of old controversies. Yet it is encouraging to think that, even if one had something very 'extreme' to say, one might now count upon being heard with patience and urbanity.

It would be idle to deny that the hopes which were entertained by the younger men of the 'historical' or 'inductive' school in Germany some twenty years ago, and by Cliffe Leslie and more recently by Dr. Ingram among English writers, have not hitherto been realised. They looked for a complete and rapid transformation of economic science; and it needs only a glance at the most widely used textbooks of to-day to see that no such complete transformation has taken place. Of this disappointment a

[1] Marshall, *Principles*, p. 92 (2nd ed.).

partial explanation may be found in the fact that the historical economists were still so far under the spell of the old discipline as to continue to conceive of economics under the forms made familiar by the manuals. They still had before their eyes the customary rubrics of Production, Distribution, and Exchange; they still handled the sacred terms Value, Supply, Demand, Capital, Rent, and the rest—terms which, to use Oliver Wendell Holmes's phrase, were just as much in need of *depolarisation* as the terms of theology; they still looked forward to framing 'laws' similar in character, however different in content, to the 'laws' in possession of the field. Aiming, as they unconsciously did, at the construction of a body of general propositions dealing with just the same relations between individuals as the older school had given its attention to, it was natural that they should fall back on the use of that deductive method which is certainly of service for the analysis of modern competitive conditions, although they had begun by unnecessarily rejecting it. And thus the 'methodological' arguments of the orthodox may seem to have gained an easy victory.

I shall attempt to show later that this is not an adequate version of the matter; that during this period the historical movement has been slowly pushing its way towards its own true field of work. Even in its relation to current economic teaching, it has performed a work of vital importance. It has been no mere aberration, passing away and leaving no trace; nor is it quite a complete account of it to say that it has contributed useful elements which have been incorporated in the body of economic science. It has done more than this: it has changed the whole mental attitude of economists towards their own teaching. The acceptance of the two great principles—which are but different forms of the same idea—that economic conclusions are *relative* to given conditions, and that they possess only *hypothetical* validity, is at last a part of the mental habit of economists. The same is true of the conviction that economic considerations are not the only ones of which we must take account in judging of

social phenomena, and that economic forces are not the only forces which move men. It need hardly be said that all this was recognised *in word* long ago; but it may be left to the verdict of those who are conversant with the literature of the last generation whether these convictions were really underlying and fruitful parts of daily thought, as they are now tending to be. The remark, indeed, is not out of place in passing, that, although this salutary conversion may be discerned among professional economists, it has hardly taken place so completely as one could wish with the educated public, and that historical zealots may still do good service in insisting on these well-worn platitudes.

The altered mental attitude of the theoretic economists themselves towards their own doctrine is so much the most important result, from the point of view of current teaching, of the historical movement that it dwarfs its other effects in the same direction. But these other effects are well worth looking at; and they are evident enough, if we turn over the two most important of modern treatises, the 'Principles' of Professor Marshall and the 'Lehrbuch' of Professor Wagner. Professor Marshall so clearly realises that the understanding of modern conditions is assisted by a consideration of their genesis that he introduces his work by two chapters on 'The Growth of Free Industry and Enterprise,' and by another chapter on 'The Growth of Economic Science.' So, again, his discussion of Population is preceded by a history of the doctrine, and a history of population itself in England. His treatment of Industrial Organisation consists largely of historical reflections. The theory of Distribution is introduced by a sketch of its history, and the doctrine of Rent is considered in relation to early forms of land tenure. With Professor Wagner the influence of historical thought is even more marked. As every one is aware who has had occasion to consult the recent volumes of his 'Finanzwissenschaft,' his accumulation of historical material has grown so fast that it is threatening to become unwieldy. A more convincing evidence of his familiarity with historical modes of thought is presented in many parts

of his treatment of general theory; e.g. in his acceptance of the position that 'capital,' as it is now understood, is an 'historical' and not an eternally necessary 'category.' He even attempts to formulate an historical law—a law of the course of economic evolution—and that in a matter which touches modern problems very closely; to wit, his 'law of the increasing extension of public and state activity.' That Wagner should to-day be regarded, and should regard himself, as a champion of abstraction and deduction as against the 'extreme *Historismus*'—though just enough in the main—has in it something of the irony of circumstances. It reminds one of the observation of John Stuart Mill that the great advantage from the presence of extremists is that any course short of the extreme gains the charm of 'moderation.'

It need hardly be said with regard to the examples just given that, suggestive as such historical reflections and generalisations may be, they are not to be regarded as necessarily either accurate or desirable methods of using historical material. They illustrate, however—and that is all I wish to show—the influence, to a large extent the unrealised influence, of the *Zeitgeist* even over writers who wish to carry on the old traditions.

In the wider issue of the comparative merits of induction and deduction, it may be observed that conservative economists themselves no longer employ the sweeping language in favour of deduction which characterised their predecessors. They have discovered, like M. Jourdain with his prose, that in one very important field, that of Production, they have been inductive all along without knowing it.[1] It is further allowed by recognised authorities that 'within the province of *descriptive* and *classificatory* economics there is unlimited scope for valuable economic work.'[2] And accordingly we see a series of useful studies in modern industrial life—studies largely historical—appearing under the highest

[1] Sidgwick, *Principles*, Introduction, chap. ii. § 1.

[2] Keynes, *Scope and Method of Political Economy*, p. 166.

economic patronage.[1] Even the pages of the Harvard 'Quarterly Journal of Economics'—the peculiar home of theory—furnish articles on the history of the tariff or of the currency; though it must be allowed that even the severest theorists have sometimes coquetted with facts when they approached these particular topics. It is true that we are cautioned that 'the knowledge of particular facts, which is thus afforded, does not in itself constitute the end and aim of economic science.'[2] But we will not be distressed by this if only the work of inquiry will go on. It marks the awakening—or the re-awakening—in American and English economics of a sacred passion for the observation of real life, of which it has too long been devoid.

I have, however, already remarked that, while thus affecting the character of the teaching of economic theory, the historical movement has pursued its way, and is now settling down into a channel of its own. This is none other than the actual investigation of economic history itself. This may perhaps be a somewhat surprising remark. It may be asked, 'What, then, have the economists of that school been doing hitherto?' It will, however, I think be found that the creators of the school were rather men who had been touched by the historical thought around them, and inspired by its ideas, than original investigators. This was not to their discredit: it was the result of the situation. But to-day the leaders of the school are throwing themselves into detailed research, and are feeling their way towards independent historical construction. We have only to look at the publications of Professor Schmoller, of Berlin, and of the body of fellow-workers he has gathered around him, or at the large programme of inquiry into agrarian history which Professor Knapp, of Strasburg, and his circle have put before themselves,[3] to discover how strong is the current in this

[1] E.g. Price's *Industrial Peace*, with preface by Professor Marshall; and the other publications of the Toynbee Trust. [2] Keynes, p. 167.

[3] The reader who is unacquainted with the really considerable work undertaken by Professor Knapp and his friends will find some account

direction. And with this serious engagement in historical inquiry has come a clearer perception of the nature of the generalisations towards which that inquiry must work. It is seen that these will not be mere corrections or amplifications of current economic doctrines: they will rather be conclusions as to the character and sequence of the stages in economic development. The point of view is here no longer that of a bargain between individuals in given social conditions, but of the life and movement of whole industries and classes, of the creation and modification of social mechanism, of the parallel progress and interaction of economic phenomena and economic thought. The studies of the school are no longer individualist and psychological, but collectivist and institutional. To help out my meaning by two hackneyed but convenient phrases, the 'laws' of which they think are 'dynamic' rather than 'static;' and they aim at presenting the 'philosophy' of economic history. And thus their interest in any one period is not that they may directly compare it with the present or any other period, but because every period may furnish them with points from which they may determine the curve of economic evolution.[1]

It has been inevitable that, with such an ideal before him, the leader of this newer historical school, Gustav Schmoller, should sometimes have spoken slightingly of the attempt to continue the old work of deductive argumentation: it was inevitable that the theorists he has in mind should retort with language of equal confidence in the superior merits of their own methods. It is often hard for a man to recognise that he pursues a particular line of thought chiefly because his own mental gifts lie in that direction. It is very natural that he should feel that the task towards which he is himself drawn is the most urgent and beneficent of all tasks. But when Professor Schmoller, instead of being

of it in a review by Mr. Keasbey and another by the present writer in the *Political Science Quarterly* for December 1892 [and in the article on the recent writings of Professor Knapp, *infra*, p. 132].

[1] [Cf. my article on 'Historical School of Economists' in Palgrave's *Dictionary of Political Economy*, vol. ii. 1896.]

submissive to the lessons read to him, remarks that it is useless to expect progress from 'the further distillation of the already-a-hundred-times-distilled abstractions of the old dogmatism,'[1] and declares very plainly that those who attempt the process lack a wide philosophical training,[2] he uses language which, as Matthew Arnold said on a somewhat similar occasion, has certainly 'too much vivacity,' and is sure to create soreness. And when Professor Menger retorts by inventing for the labours of his opponent the pleasing terms 'miniature-painting,'[3] 'micrography,'[4] and '*specialissima* about some gilds or other,'[5] he can hardly be acquitted of a certain acerbity.

It is surely time to cry a truce to controversy. Let it be acknowledged that for a long time to come there are likely to be many honest and hard-working and intelligent men who will be interested in economic theory: let it be acknowledged, likewise, that there are likely to be a number—small, indeed, in America and England, but still noticeable—who also are honest and hard-working and not altogether unintelligent, who will be interested in economic history. Let us try for the next twenty years to leave one another severely alone, and see what will come of it. If we have time, let us read one another's books. Perhaps we shall be converted: perhaps we shall only get a suggestion here and there; but, if we cannot agree, let us be silent. We shall, at any rate, gain some little additional time for our own inquiries; and meanwhile the general progress of human thought may quietly bring a solution. And yet I must not be supposed to imply that the controversy of the last few years has been a waste of words. A good deal of fighting was necessary before the right of the historical economist to a fair field was recognised in England and America. I should not be surprised to hear that in Germany some few years ago there was the opposite evil—a too

[1] *Zur Litteraturgeschichte der Staats- und Sozialwissenschaften*, p. 279.

[2] *Ibid.* p. 293.

[3] *Die Irrthümer des Historismus*, pp. 26, 37.

[4] *Ibid.* pp. 27, 37.

[5] *Ibid.* p. 40.

complete exclusion of economic theorists from places of academic influence. But now that an armistice can be signed on honourable terms, it were well to do so. Harvard must receive the credit of having been the first among universities to realise the altered situation. It has been the first to see the wisdom of having both attitudes—the theoretical and the historical—represented in a great institution of learning. Its action is the more commendable because it has been determined upon at the instigation of teachers already in possession of the territory, whose own intellectual sympathies are chiefly on the side of theory. They have shown a confidence in free inquiry, and an understanding of the true nature of a university, which are still rare.

But such a truce certainly ought not to prevent any of us from frankly expressing his own private opinions to any student who cares to ask for them. And the opportunity to make one's own position plain upon assuming new duties in a new sphere is so rare that it may fairly be brought within the same exception. It must be remembered that I shall be expressing only my own individual judgment; that I know full well that there are many able men who absolutely differ from me; that it is probable enough that, having heard what I may have to say, students will straightway go off and work in another direction; and that they may be happy in doing so. Still, what I should say to an able and properly prepared student of mature mind who came to me for suggestions would be somewhat as follows:

'You have already, I understand, given some attention to Political Economy. You are acquainted with the main outline of the theory as it is presented, for instance, by John Stuart Mill. You know something of the history of Political Economy from Adam Smith to Mill, and of the general character of the development since Mill's time. If indeed you have not already got this equipment, I would advise you to get it; the study will supply you with points of view which you will afterwards find convenient, and it will

introduce you to an interesting chapter of modern thought. Moreover, as teaching is now arranged in the great universities, you will have little difficulty in making these preliminary studies. Six months' steady work will probably suffice. I can assume, you tell me, that you already have this knowledge; you are interested in the economic life of society; you would like to attempt a little independent work of your own; and you ask in what direction your efforts are likely to be most fruitful. I cannot say that the outlook in the field of theoretic discussion looks very hopeful. For years there has been a keen controversy going on upon the subject of Distribution; and economists, even economists of the first rank, seem as far from agreement as ever. According to President Walker, Wages are the Residual Share which falls to the labourer out of the joint produce of capitalist, employer, landowner, and labourer, the three other shares being limited. For fifteen years he has maintained this in books of every size: it has been echoed in half the colleges of America and Great Britain; and yet I doubt whether you could discover another living economist of eminence who agrees with him. Or take Profits. You will find equally competent writers who explain Profits as the Wages of management, as a reward for Risk, and as a species of gain governed by laws similar to those of Rent. I am aware that several of the younger American economists are accepting wholesale the new Austrian doctrine of "subjective value," and think they find in it the key to every problem. But I notice that, in the judgment of Dr. Bonar—who has himself done more than any one else to introduce the Austrian writers to the attention of English-speaking students—what they have given us is "rather a definition of value than an explanation of its causes."[1] Their principles have still to be applied to "the problems of distribution as they meet us in modern countries;"[2] and it is not clear that in this undertaking their American disciples are being greatly helped by the new phraseology.

[1] *Quarterly Journal of Economics*, iii. 26. [2] *Ibid.* p. 31.

Moreover, one cannot but observe that the early difficulty is still constantly turning up—that economists cannot understand one another. There is a page in one of the back numbers of our own "Quarterly Journal" which makes one pause. It contains two brief letters. In one, distinguished economist A says of a criticism of his views by distinguished economist B, "I abide by my doctrines as expounded by myself, and I do not accept the paraphrase of them given by Mr. B." In the other, well-known writer C remarks of well-known writer D, "I shall have no difficulty in showing that Mr. D, despite his denial, did use the term 'profits' as I understood it."[1] One takes up by chance another number of the "Quarterly," and one's eye catches "The misunderstanding that is the basis of President Z's chief criticism [of me] is radical and unexpected."[2] I see no reason to suppose,' I should say to my inquiring friend, 'that you are likely to be much more successful in interpreting statements of theory than these able persons have been. Of course, if you have reason to believe that you possess a peculiar aptitude for abstract reasoning, and are strongly attracted towards economic theory, you may find a good deal of pleasure in turning your thoughts in that direction. I hardly care to prophesy, with any very strong feeling of certitude, that you will not arrive at valuable results; though I scarcely think it probable. Farther than that I am not inclined to go. But, if you have no such strong bent, then I would suggest that you should consider the advisability of trying your hand at economic history. Here is an almost untrodden field: here is abundance of material; and, even if you do not arrive at any very wide-reaching conclusions, the facts which you may discover will themselves be positive accessions to knowledge. As Lotze says, "To know facts is not everything, but it is a great deal; and to think lightly of them because one yearns for something further is fitting only to those who do not understand that the half is often better than the whole."'

[1] *Quarterly Journal of Economics*, iii. 109. [2] *Ibid.* vi. 116.

Before proceeding now to speak more at length of economic history itself, there are two criticisms which it will be well to clear out of the way. It is urged, in the first place, that 'some familiarity with economic theory is essential to the interpretation of industrial phenomena such as it falls within the province of the historian to give.'[1] It will be remembered that I have advised the imaginary enthusiast to begin by gaining even a considerable familiarity with economic theory. But I must confess that I have done so chiefly from a sense of justice to the man himself in the present state of opinion. Theoretic political economy is still so strong in the support of most teachers in England and America that it would be hardly fair to set a man against the current—especially if his professional prospects as a teacher were at all involved—unless he were in a position to judge for himself. But, so far as the actual utility of economic theory to the historian is concerned, I cannot help feeling that much of the language used is unnecessarily grandiose, especially as applied to those periods which are in most need of investigation. Says the same writer, 'All that is really given us in each case by direct evidence is a highly complex sequence of events, in which the true bonds of causal connection may be disguised in a thousand different ways, so that, far from being patent to every observer, they can be detected only by the trained student thoroughly equipped with scientific knowledge.' But, when this same writer goes on to illustrate economic theory from history, the sort of illustration he takes is a statement that 'a dry summer' in the Middle Ages 'caused much wear and tear of implements, and consequently an increased demand and a higher price, so that the bailiffs' accounts frequently mention "the dearness of iron on account of drought."' 'We could not,' he says, 'have a better illustration of the effect of demand on price.'[2] Surely, the power of tracing so obvious a connection between phenomena demands nothing more than plain common sense: we might even use

[1] Keynes, p. 271.

[2] *Ibid.* p. 287.

the amusing phrase of Thorold Rogers, and say that 'so much was known in the days of the Egyptian and Babylonian kings.' The author whom I have quoted would seem to have been unwittingly taking for granted that the historical economist is anxious to discuss just such problems as the modern theorist, only in a different environment. Such exaggerated estimates of the value of theory will disappear when the character of the work before the economic historian comes to be better understood. It will be seen to be almost as great a mistake to use such language in relation to the historian of economic conditions as it would be to use it in relation to the historian of constitutional or legal conditions. It is strange that this is not already apparent. No one, for instance, would deny the great value for a true understanding of social progress of two recent books touching very different periods, Mr. Seebohm's 'Village Community' and Mr. Charles Booth's 'Labour and Life of the People.' In neither of these books has economic theory been of any visible service.

Nevertheless, to provide against the chance that even the simplest causal connections may be overlooked, it will be a wise precaution to advise students to begin by making themselves familiar with the rudiments of modern Political Economy. Moreover, since modern Political Economy has certainly brought into prominence some of the leading characteristics of the agriculture and industry and trade of to-day, its formulæ will give the economic historian convenient standards of comparison, whereby he may the better perceive what are the distinctive features of past conditions. But more than this economic theory will not, in my opinion, do for any save those states of society to which its ablest vindicator, Bagehot, expressly restricted its applicability—those 'states of society in which commerce has largely developed, and where it has taken the form of development, or something near the form, which it has taken in England' and America during the last hundred years.[1] And even for

[1] *Economic Studies*, p. 6; cf. pp. 5, 17.

this very recent period a good deal of excellent work, of indispensable work, is possible without the use of 'the economic organon;'[1] as is abundantly shown by the writings of Mr. Charles Booth and what may be called his school—such investigators as Mr. Schloss, Mr. Llewellyn Smith, and Miss Collet.

The other stumbling-block to be cleared out of the way is the argument based on the imperfection of the historical record. Mr. Keynes has quoted from Richard Jones the remark that 'history has suffered to drop from her pages, perhaps has never recorded, much of the information which would now be most precious to us;'[2] and, as Jones is one of the Fathers of the historical church, the objection is a depressing one. But, on referring to the passage itself, it will be found that Richard Jones went on to put a more cheering view of the matter in language which, though a little rhetorical, ought always to be quoted after citing the preceding sentence: 'Yet this defect does not always exist when we think it does. The compiler and the student are sometimes more to blame than the original historian. The labours of Niebuhr, Savigny, Heeren, Müller, have proved that there is much knowledge, most important to our subject, in historical records, which has faded from the minds of men, and must be laboriously recovered from the recesses of neglected literature, like lost and sunken riches from the secret depths of the ocean. Our own scholars and antiquaries will not, we may hope, be backward in imitating them; and the historical documents, both of our own and

[1] This is the happy phrase of Professor Marshall, and the text of his *Present Position of Economics* (1885). With a very great part of Professor Marshall's argument the present writer would entirely agree; though he would point out that the 'examination of facts by reason' (p. 44) and the use of the 'three familiar scientific methods' (p. 45) do not necessarily involve the use of the 'organon.' He would urge, also, that to say, as Professor Marshall does, that 'facts by themselves are silent' (p. 41) is to overshoot the mark. The lecture, however, shows the dawn of the sun of conciliation seven years ago rather than the present effulgence of its noontide beams.

[2] *Scope and Method*, p. 308.

of foreign countries, contain, we may well believe, large and unknown stores of economical instruction—many a heap of unsunned treasures to reward their researches.'[1]

We are now in a position to look at the nature of economic history a little more closely. Let us begin by asking wherein it differs from what has hitherto been known as social history, or what the Germans call 'the history of civilisation'—*Culturgeschichte*. Social history—so far, indeed, as it has existed at all—has appealed to a multiplicity of interests. It has appealed, e.g., to a psychological interest, curious to study forms of thought remote from our own; it has appealed still more to what may be called an æsthetic interest, the pleasure we take in mere quaintness or strangeness, like our satisfaction at seeing a mediæval market-place on the stage. But economic history is throughout dominated by one main interest—the economic. It asks what has been the material basis of social existence; how have the necessaries and conveniences of human life been produced; by what organisation has labour been provided and directed; how have the commodities thus produced been distributed; what have been the institutions resting on this direction and distribution; what changes have taken place in the methods of agriculture, of industry, of trade; can any intelligible development be traced; and, if so, has it been from worse to better. These, and many like them, are the questions which will be asked by the student of economic history. The marking out of such a field of study is only a fresh example of the division of scientific labour: it is the provisional isolation, for the better investigation of them, of a particular group of facts and forces. And this especial study of what may at first sight seem a sordid side of human affairs is justified by its importance. For 'the two things best worth attending to in history,' as Mr. John Morley has well remarked, 'are the great movements of the economic forces of a society, on the

[1] *Literary Remains*, p. 570.

one hand, and, on the other, the forms of religious opinion and ecclesiastical organisation.'[1] Much that has been included in social history the student will now relegate to the historian of art, of literature, of technical processes, of superstition, and what not. What remains he will utilise for his special purpose, endeavouring to place in order and coherence what has hitherto been but a heap of disconnected particulars.

It may, however, be observed in this connection that the economic historian will often think it wise to postpone the consideration of many bits of information—may even be tempted to thrust them impatiently on one side—which are commonly supposed to be of prime importance for his purpose. This is particularly true of statistics as to prices and wages in the Middle Ages. Partly because Thorold Rogers gave his whole attention to the collection of this sort of material, partly because the economic theorists are preoccupied by the operations of the market, there has grown up an idea that what the economic historian most craves for is to learn the price of a day's labour or of a day's food in past centuries. Facts of this kind are valuable, but only when we can place them in their proper setting. Our first requirement is to understand, far more precisely than we do at present, what has been the institutional framework of society at the several periods, what has been the constitution of the various social classes, and their relation to one another. This is the explanation of what must have struck every one who has given serious attention to English agrarian history—the infinitely greater importance of the first one hundred pages of Mr. Seebohm's work than of all Thorold Rogers's voluminous collections, and that although the former had not in all probability given to the subject one-fourth of the time and labour bestowed by the second. It is because Mr. Seebohm has given us a vivid picture of the daily life of the agricultural population, which has for the first time imparted to Mr. Rogers's facts a true significance.

[1] 'On Popular Culture,' in *Miscellanies* (ed. 1886), iii. 9.

'If "economic history," after all, is only a branch of history, why not leave it,' it may be asked, 'to the historian pure and simple? or, if you are not content to do that, why thrust yourself into the ranks of the economists?' Well, the time may come when those who are interested in economic history will have to turn their backs on the 'economists,' and cry, *Ecce convertimur ad gentes!* It may be granted that, as things are now, economic history belongs equally to the departments of history and economics. But this same characteristic of touching two fields which are nevertheless fenced off from one another is equally true of legal history and of ecclesiastical history. There is no reason in the nature of things why the 'pure historian,' as he is called, should not investigate both the history of religion and the history of law. But, as a matter of fact, the work of research in these two fields has usually been carried on by men who began by being theologians and lawyers in the narrow sense. So, similarly, the men who have of late done most to advance the knowledge of economic history are men like Schanz, Ochenkowski, Held, Brentano, Toynbee, Cunningham—to mention only those writers who have given special attention to England. All these have been men who have had an 'economic' training, and have been drawn to the study of the past by their interest in the problems of the present. Professor Menger has indeed complained, in language which leaves nothing to be desired in point of vehemence, that 'the historical school has been from the very first not the result of the profound study of the problems of our own science: it has not arisen, like historical jurisprudence, from the scientific needs of economists dealing seriously with their own questions.'[1] 'Like foreign conquerors have the historians entered upon the territory of our science, to force upon us their speech and usages, their terminology and methods.'[2] Professor Menger may have had in his mind, while thus writing, circumstances hidden from the world; but, certainly, his statement is very far from being precise,

[1] *Irrthümer*, Vorwort, p. iii. [2] *Ibid.* p. vi.

so far as English work is concerned. No one would, I imagine, deny the name of economist to Richard Jones, to Cliffe Leslie, to Thorold Rogers, to Arnold Toynbee. The case of Toynbee is sufficient to illustrate the motives that have been at work. Towards the end of his brief life Toynbee came to give his attention more and more exclusively to the economic history of the last two centuries, precisely because of his inexorable desire to penetrate more deeply into 'the problems of our own science.'

But to dwell on the somewhat grudging attitude of certain writers would be to partake of their spirit. In my lectures here—if I may speak for myself—I shall assume such an acquaintance with the main facts of 'pure history' and also with the main ideas of 'pure economics' as may fairly be asked of intelligent men. My hearers may be expected, I hope, to know the centuries to which belong the Norman Conquest, the Fall of Constantinople, the Discovery of America, the French Revolution, just as they may be expected to know the general meaning of Division of Labour, and Supply and Demand. It will be cause for rejoicing if the study attracts men from the historical side as well as from the economic. But so long as students present themselves, and men are stimulated, after a survey of the field, to engage in new investigation, we need not greatly care to what group of studies this particular one is assigned. It is indeed one of the advantages of the elastic system of Harvard teaching that here such perplexities need hardly trouble us.

And now let us ask ourselves, before we leave the subject, why, after all, we should study economic history. First, then, we study economic history for a reason which some may think the lowest, and others will regard as of the essence of a liberal education: in order to gratify a natural and innocent curiosity. The more we discover that history, as we have hitherto possessed it, has told us scarce anything but the external movements of the surface waters of society, the more we shall be drawn to the

search for really trustworthy and illuminating knowledge. The mere desire to know will be for many the only motive and the sufficient justification. A distinguished man of letters has indeed said that he 'does not in the least want to know what happened in the past, except as it enables him to see his way more clearly through what is happening to-day.'[1] Auguste Comte carried the principle further, and even proposed to put the continued pursuit of certain studies under the ban as unsocial, when once they had reached a point beyond which, in his judgment, they were incapable of being of service to mankind. It chanced that the very study which Comte would have proscribed, pursued, as it was, in spite of his anathema, from the mere love of truth, has since been fruitful in new and practical applications. And so it may be with economic history. Let us know all we can about it; and the application may be trusted to take care of itself. Even if the subject had no utility outside its interest for the student himself, it would widen his sympathies, enlarge his conceptions of the possible, and save him from the Philistinism of the market-place.

But with many of us it will properly be an additional motive that economic history is intimately bound up with modern discussions. This is a consequence of that peculiarly English and American trait, the love of precedent. To what is called the 'Anglo-Saxon' mind the fact that such and such conditions existed in the past is itself a strong reason why they should be made to exist in the present. It is very noticeable to any one who has come into contact with popular socialistic or revolutionary movements that an alleged historical fact has often more hold upon men's minds than any theoretic argument. Take, for instance, the belief in a primitive communism. Mr. Henry George tells his readers—and he has doubtless a certain apparent justification in the writings of some recent authorities—that 'the common right to land has everywhere been primarily recognised, and private ownership

[1] Mr. John Morley, *u.s.*

has nowhere grown up save as the result of usurpation ; ' and, again, that ' historically, as ethically, private property in land is robbery.' [1] You have only to attend a single-tax meeting to find that this argument plays a much greater part in the thoughts of Mr. George's disciples than it does even with Mr. George himself. Or, again, notice how prominent in English socialist literature has become the picture of the golden age of the English labourer in the fifteenth century—a theory which was first borrowed from Thorold Rogers, and is now regarded almost as an accepted truth. We are even beginning to be told that the eight-hours movement is but the restoration of the labourer's long-lost happiness. We shall not, I trust, turn to history merely in order to find arguments for or against any such movements ; but the circumstance that our study has this curious bearing on modern discussions may fairly endow it with a keener zest.

And, finally, there may be some who will be drawn to this field of inquiry by a hope akin to that which has been so stimulating in the investigation of physical nature—the hope that they may thereby arrive at a more satisfying and intelligible conception of the evolution of human society. Just as in biological and physical science the investigator is buoyed up by the conviction that every isolated fact, could he but learn how, has its own place in a sequence, its own significance and appropriateness, so in the history of man we can never be content until we have found it a connected and consecutive whole, or until we know of a surety that it is but a chaos of meaningless fragments. We cannot cease attempting—to use an old phrase in a more modern sense—' to justify the ways of God to man.' How far we still are from any such unifying conception of history I need hardly say, least of all to those who have tried in vain to satisfy their hunger with the husks of ' Sociology.' May it not be that in those constant daily needs which men have ever been compelled to meet on penalty of starvation,

[1] *Progress and Poverty*, Book VII. chap. iv.

in the never-ceasing labour to produce out of the earth the good things it contains, and in the efforts after a wiser distribution of the product, we may find the thread of continuity, the unifying generalisations, which shall at last make history something more than 'a shallow village tale'?

ON THE STUDY OF ECONOMIC HISTORY:

AFTER SEVEN YEARS[1]

For the title assigned to this paper [2] I disclaim responsibility; it is the kind invention of the Chairman of the Programme Committee. Perhaps I weakly acquiesced in it in an inconsiderate moment; but, on turning the matter over, I have felt more and more loth to disparage a subject for which I care so greatly by anything in the nature of a 'plea.' For, indeed, the time has gone by when that was necessary: we who concern ourselves with economic history have with us the current of the world's thought; and, without any word of argument on its behalf as 'a field of study,' it is sure for a long time to come to engage a larger and larger share of public and academic attention. The grounds of this confidence are evident. Consciously or unconsciously, each generation is bound to look with peculiar interest, in its survey of the past, at those aspects or sides of life which for any reason interest it most in the present. This is not only because it expects the study of history to throw light on its own immediate problems, though that is a motive which has greatly influenced it; it is quite as much because the circumstances and discussions of its own time have opened its eyes to the existence of a whole realm of phenomena in the past to which it was before blind, and have thus extended the bounds of a rational curiosity. Whether, as a result, it writes its general histories with a preponderating regard for

[1] [A Paper read at the Annual Meeting of the American Historical Association, Boston, December 28, 1899.]

[2] *A Plea for Economic History.*

certain elements, or singles out those elements and writes special histories of them, is not of any great significance; it is sure to do one or the other.

For three centuries men's minds were turned in one particular direction by theological controversies; and accordingly vast stores of erudition were amassed by professed historians of the Church, from Bellarmin to Mosheim; huge collections of authorities were printed by the Benedictines and others; and, what is of more significance, every great scholar, a Grotius or a Casaubon, was inevitably a good deal of an ecclesiastical historian. How foreign to us of to-day such an attitude has become is apparent when we reflect on the prevailing tendency to relegate Church history to theological seminaries, and on the difficulties which most university teachers now encounter when they seek to make a class believe that theological definitions have ever seriously affected human action. The era of constitution-making, ushered in by the French Revolution, gave us our constitutional historians. Without 1830 and 1832, Guizot and Hallam and Macaulay are inexplicable: unless the student of the twenty-first century has in mind the two Napoleons he will find it hard quite to appreciate the point of view of Mommsen's 'Rome;' and, if he has forgotten what the English party system was like in the days of Victoria, he will imperfectly understand the Greek history of Mr. Grote. Precisely in the same way, the pressure of modern economic problems is certain to produce, has already begun to produce, a whole literature of economic history. The Socialist critics of existing social conditions were among the first to turn to history for arguments in support of their contentions: more conservative students of social affairs have felt bound to examine their statements of alleged fact; and what with the labour question and the agricultural question and the tariff question and the money question all in the air, what with the democratisation of politics, and humanitarian ethics, even the general historian has been carried along by the stream. The preface to Green's 'Short History of the English People' is the profession of faith of the typical historian of our age; and not among the least significant things about it is its date,

1874. Much of this new interest in 'the common people' will doubtless expend itself on external details, of clothing, food, housing, and manners; but I am sure that all serious students will agree with me in this, that most particulars of this kind are essentially trivial until they are brought into relation to those economic conditions on which reposes the structure of society at any particular epoch. How my expected successor at this desk[1] would have interpreted the epithet 'social' I will not conjecture. At least three senses may be attached to it: it may mean more or less entertaining gossip about 'habits and customs,' meaningless without an economic or technological commentary; or it may be a synonym for economic history; or it may designate that complete portrayal of the whole evolution of society which shall do justice to each of its elements and aspects, and which we all, I suppose, dream of as an ultimate ideal. Towards social history in this latter sense, it is the task of economic history to furnish, not the only, but, as some of us believe, a very considerable contribution.

For one with anticipations like these, it would be absurd to worry about the precise place which the study of the economic side of history may take among academic disciplines, or the precise designation it may bear. To secure the advantages of division of labour there is just as much to be said for the establishment of a separate chair of economic history as for separate chairs of ecclesiastical or constitutional history. If established, it may be attached to an historical department or to an economic department, or to both; just as a chair of ecclesiastical history may be attached to History or to Theology, or to both; or a chair of constitutional history to History or to Law, or to both. Or again—and this is an arrangement which I should personally prefer and in which there is some practical advantage—Economic History may be brought within some larger grouping including both History and Economics. But this is a matter of polity to be differently treated under different circumstances; and universities will do well to be guided by some considera-

[1] Mr. Paul Leicester Ford, with *A Plea for Social History*.

tion of the idiosyncrasies of the teachers they already possess. Where a university already possesses an Historian with adequate economic training who is eager to direct his students to the development of the economic organisation of society, or an Economist of sufficiently wide and accurate historical knowledge, who is anxious to show the historical background of the economic problems of the present, I see no reason why Economic History should not be taught in the one case as 'History' and in the other as 'Economics.' Certainly the plan of a separate chair and separate courses, while it has its advantages, brings with it exactly the same danger as every other partition of the historical field: the danger lest it should lead to an unreal isolation of certain groups of phenomena, and lest teachers and students should forget that the field of history is after all one, and only provisionally divisible. In one of the greatest of universities, I have known a question, proposed for an 'Economic History' paper, objected to on the ground that 'the constitutional and economic effects' of such and such a measure fell only to the extent of one-half under the heading of the paper; as if it were not a positive merit in a question that it asked men to look at an event from more than one side. And what is true of 'branches' of History, is true also of the relations between History and Economics. The important thing is to remember that all our sharp distinctions are for temporary convenience merely; there are no such sharp distinctions in human life itself.

In some circles of late years—fortunately not yet in America or England—it has been thought necessary for economic history to clear itself from the charge of 'materialism.' Karl Marx, a man of great ability, but neither so learned nor so original as he appeared, was in the habit of using language which implied that the economic situation at any particular time not only conditioned but also created, as a sort of reflection of itself, all the political, intellectual, and even religious phenomena of the period. His disciples have eulogised him as the 'discoverer' of the 'materialistic con-

ception of history,' and they have not hesitated to apply it to the most apparently recalcitrant matter. According to the most distinguished of them, even Calvin's doctrine of Election is but the theological expression of the dependence of success or failure in competitive business on causes outside individual control. More recently a Professor of Political Economy at an Italian university, Signor Loria, has elaborately set forth his conviction also that politics, ethics, and religion are simply the product of the economic environment. Still more lately a German Professor of History, Dr. Karl Lamprecht, has taken occasion, apropos of the publication of his attractively written History of Germany, to justify his 'method' in language which at any rate produced the same impression. All this has created so much consternation and alarm, that for the last two or three years everybody who has ventured to write about economic history at all has been liable to be called upon to 'stand and deliver' *his* opinion, as to the materialistic conception of history, at a moment's notice.

The sort of line which I have occasionally ventured upon when tackled on the subject—and which, I am bound to add, has usually struck my questioners as rather mean-spirited—I would make bold to adopt on this present occasion. The question whether a 'materialistic' conception of history is tenable—i.e. the question whether the whole movement of human history in all its phases is due to the pressure of external conditions independent of man's volition, save so far as his apparent volition may be itself the result of the *milieu*—is only another form of the eternal problem of the Universe: Necessity or Free Will? I am ready to talk round and about the subject if I am compelled. I would point out that to 'condition' political or intellectual progress is not the same thing as to 'cause' it, if for no other reason than this, that more than one set of political institutions, more than one body of religious opinions may be consistent with—possible under—given external conditions. I would point out, again, that a system of thought, even supposing it created by the external environment, has evidently often developed by its

own internal logic, and grown to something very different from its original form, but equally if not more powerful over men's actions, without any precisely corresponding change in surrounding circumstances. I would point, moreover, to certain crises in the world's history which would seem to have been determined by such old-fashioned causes as patriotism or individual genius. For instance, with the material before us for an opinion, it would be a paradox to describe the resistance of Athens to Persia as due to the economic situation of Attica: it was the Medising states which yielded to the pressure of material interest, not Athens. Or again, when we compare England under the Confessor with the contemporary kingdoms of France and Germany, I see no explanation for the fact that England afterwards gained a relatively strong central government while the other kingdoms lost it—a fact of large importance for the subsequent development of the country, politically, economically, ecclesiastically—save in the circumstances that such a ruler as William of Normandy conquered the land, and that he was followed by such men as the second Henry and the first Edward. But while I might put in all these pleas for caution, I shall not think it worth while, in my character as an historian, to come to close quarters with the heart of the question, the problem of Determinism, until—and this is the point—something like a *prima facie* case has been made out by the economic necessarians.[1] I have yet to see any considerable part of the history of mankind explained as the exclusive result of material conditions in a way which can satisfy the more immediate and obvious tests of the careful historian.

Only too frequently—I have in my mind a recent bewildering treatise by an American economist—A is explained by B, when to the mere historian, who looks after dates and evidence and knows something of ordinary human nature, it is apparent that A did not exist, that B did not exist, and that

[1] Readers who are not disposed to wait may be provisionally referred to Professor James's essay on 'The Dilemma of Determinism' in *The Will to believe.*

if A and B had existed, B would not have been adequate to explain A.[1] I might illustrate my attitude by means of an example from the book of Professor Lamprecht. He asserts that the bureaucracy of the fifteenth century in Germany was the outcome of the new *Geldwirthschaft* of the time. Before I accept or deny this proposition, I should like to see it proved (1) that there was a 'bureaucracy' in the fifteenth century, (2) that there was a *Geldwirthschaft*; and, when this preliminary task is completed, (3) that the bureaucracy was actually supported by the *Geldwirthschaft*, and (4) that in all the other countries that had a bureaucracy there was a *Geldwirthschaft*, and in every country where there was a *Geldwirthschaft* there was a bureaucracy. When all this is shown, it will be quite time enough to speculate whether the instance confirms a materialistic view of history or not.

I do not like, however, to mention Professor Lamprecht without some brief reference to the controversy which has raged around his book. I should hope it is possible to dwell upon it for a moment without imitating the scurrility which has made us blush, as we turned over the pages of pamphlet and journal, for the academic profession to which we belong. My own impression is that Dr. Lamprecht is right in the main in attempting what he has aimed at; that the economic side of history has been vastly more important than most historians have borne in mind, whatever they may have incidentally allowed; that throughout it has *conditioned* the political development; that again and again the economic *moment*, as the Germans say, has been the most important in the movement of a nation's career; that all this wants to be put, and steadily kept, in the forefront of our general histories; that the writer who does this deserves well of his time; and that some exaggeration is pardonable in an early attempt.[2] But I think that some of his incautious

[1] Cf. my review of Professor Patten's *Development of English Thought* in the *Economic Journal*, September 1899.

[2] But Professor Lamprecht's is by no means the first attempt. The work of Nitzsch has been strangely forgotten in this connection. See *infra*, p. 242.

philosophisings have claimed far more for economic forces than can be maintained at the present stage of inquiry, or than is at all necessary for his purpose; and that this has unduly prejudiced his cause. To me, also, Dr. Lamprecht seems to operate with far too few economic conceptions: or rather that the one economic formula, the contrast between *Natural-* and *Geld-wirthschaft*, with which he would unlock every historical mystery, is scarcely adequate for the purpose. Instead of objecting to him for being so much of an economist, I could wish he had been somewhat more of one. And after all, the strongest argument in favour of a particular 'conception' of history or a particular 'method' is work which will stand the test of the ordinary criteria of scholarship; and though much of the criticism Dr. Lamprecht has received has been petty and carping, it is only too apparent that a good deal of his later writing has been simply ill-informed and over-hasty. But I do not regard the cause of economic history as bound up either with the assertion of a materialistic philosophy, or with the claims of Dr. Lamprecht's admirers.[1]

The episode has one lesson for the 'pure' historian. It emphasises the duty of generalisation as the complement to the duty of research. Detailed research is very necessary: it is, indeed, indispensable for the historian who cares for the economic side of life; for the truth is, that of the greater

[1] Perhaps I may be allowed to refer also to my review of Dr. Lamprecht's first three volumes, in the *Political Science Quarterly*, December 1894, written three or four years before the outbreak of the controversy which has since been raging in Germany. The reader who wishes to look into the 'literature' of the discussion, may be referred among others to the following writings, after Professor Lamprecht's *Deutsche Geschichte*, Band v., which occasioned the discussion; Lenz in *Historische Zeitschrift*, lxxvii. 385 seq.; von Below in the same *Zeitschrift*, lxxxi. 193 seq.; Rachfahl in *Preussische Jahrbücher*, lxxxiii. 48 seq., and lxxxiv. 542 seq.; and the same writer in *Jahrbücher für Nationalökonomie*, lxviii. 659 seq.; Barth on 'Die sogenannte materialistische Geschichtsphilosophie' in the same *Jahrbücher*, lxvi. 1 seq.; and Professor Lamprecht's *Zwei Streitschriften* (1897) and *Die historische Methode des Herrn von Below* (1899).

part of our field we still know next to nothing, and yet there is superabundant material if we could but get at it. And useful research work is a good deal easier than the formation of sound general conclusions. Accordingly, duty and indolence and scientific caution often combine to keep the professional historian within a somewhat narrow range of interests. But the general cultivated public cares very little for exactitude of detail: it wants to know how individuals and episodes are related to some large whole, and what the *significance* of it all has been. If scholars competently trained will not try to satisfy this natural and laudable desire, incompetent writers *will*. The historian and the economist—for they are equally to blame—may expel nature with the fork of the Seminary or the Deductive Method; but Nemesis stands very near the shoulder of 'Pure Economics' or 'Pure History'—and in America it usually calls itself 'Sociology.'

One final observation and I have done. I spoke, at the outset, of the diverse motives with which men turned to the investigation of economic history. Let me add—it ought to be, but it is not, superfluous—that what happened a week or so ago falls within the scope of history just as much as what happened in remote centuries, though it is sometimes not so easy to find out; that, for instance, I am as much interested, as an economic historian, in the recent combination of firms engaged in the calico-printing trade of Lancashire and Scotland, or of those occupied in the manufacture of carpets in New England, as in the Decree of the German Diet in 1512 concerning Monopolies; and that to me the chief interest of economic as of all other history lies in the reflection that it is not yet ended.

ROSCHER'S PROGRAMME OF 1843[1]

The late Professor Wilhelm Roscher must, beyond question, be regarded as the founder of the historical school of economists, so far as that part can be assigned to any one writer. It was the 'Preface' to his 'Grundriss zu Vorlesungen über die Staatswirthschaft, nach geschichtlicher Methode' ('Outline of Lectures on Political Economy, following the Historical Method') which sounded the first clear note of the new movement in academic circles, and inspired its further progress. It is, therefore, justly described by subsequent writers as a sort of manifesto—as a programme not only for Roscher's own scientific activity, but also for the future work of the historical school.

A brief abstract of these significant pages has been given by Professor Cohn in the first volume of his 'Grundlegung,' and by Dr. Ingram in his 'History.' But these omit some points essential to a complete estimate of Roscher's position. The 'Grundriss' itself has never been reprinted. It is difficult to obtain; and it is very evident that not a few of those who have written about Roscher's place in the history of economics—both among sympathisers and non-sympathisers—have failed to give adequate attention to Roscher's own words. It may be worth while, accordingly, to print a translation of the 'Preface' as a document, and in the interests of historical accuracy, now that attention is naturally being turned anew to Roscher's achievements.

The 'Grundriss' is an octavo of 150 pages, published by the Dieterich house at Göttingen. It includes an 'Intro-

[1] [*Quarterly Journal of Economics*, October 1894.]

duction' of less than five pages, and four books, entitled 'General Part' (including Production, Distribution, and Consumption of Goods, and occupying twenty-two pages); 'National Economy,' *Volkswirthschaft* (including a treatment, primarily historical and descriptive, of Agriculture, Industry, Trade, Population, and Poor Law, and occupying seventy-four pages); 'State-household,' *Staatshaushalt* (chiefly given up to Taxation and Public Finance, and taking forty-three pages); and a 'Bibliography,' or *Literärgeschichte,* of seven pages. Even these bare facts of arrangement are not without their significance. The work is made up of brief paragraphs, much as in Roscher's later treatises, but more compressed, omitting verbs, and often merely indicating the subjects discussed. It is preceded by the celebrated

PREFACE

The following little work is simply intended for the purposes of the author's lectures. The more the subject-matter of political science daily increases in bulk, the less possible it becomes to work through it at all satisfactorily in the course of, at most, a hundred hours. And yet, as North-Western Germany is almost entirely wanting in opportunities for an administrative career, it would hardly be expedient to deal with political economy and financial science, or even economic policy (*Wirthschaftspolizei*), in separate courses. And so for the author to put into print the outlines which he has hitherto dictated, together with a list of books for beginners, and thereby to gain twelve or fifteen hours to expand his lectures in, seems to him a quite sufficient advantage of itself. But he does not in the least intend by this to make it unnecessary for his hearers to take notes. He knows from his own experience how greatly the practice of writing the substance of a lecture conduces to attention during the hour, and regularity in attendance upon the course.

Should any one acquainted with the science happen to take up this little book, he will not fail to notice that underlying the whole there is a peculiar and carefully followed method; to wit, the historical. It is clear, of course, that any judgment upon it must be deferred until in larger works I have clad in flesh and blood what is here a mere skeleton. The historical method exhibits itself, not only in the external form of a chronological arrangement of the material,

wherever that is possible, but most of all in the following fundamental ideas:

1. The question how the wealth of a nation is best furthered, we, like others, regard as a main question; but it constitutes by no means our essential purpose. Political economy (*die Staatswirthschaft*) is not only a chrematistic, an art—the art of becoming rich, it is also a political science, whose business it is to pass judgment on and rule over *men*. Our aim is the representation (*Darstellung*) of what nations have thought, willed, and discovered in the economic field, what they have striven after and attained, why they have striven after and why they have attained it. Such a presentation is only possible in closest alliance with the other sciences of national life, and especially the history of law, the history of polity, and the history of civilisation.

2. The nation is not merely the mass of individuals now living. He, therefore, who seeks to investigate the national economy, finds it impossible to satisfy himself with the observation of merely contemporary conditions. Accordingly, the study of earlier stages of civilisation—which, in any case, is the best teacher for all the ruder peoples of to-day—appears to us of almost equal importance, even though it is not possible in lecturing to give the same amount of time to it.

3. The difficulty of picking out the essential and normal (*das Gesetzmässige*) from the great mass of phenomena makes it obligatory upon us to compare with one another, from the economic point of view, *all* nations of which we can learn anything. Indeed, the nations of the modern world are so entwined with one another that no fundamental treatment of one is possible without a treatment of all. And the ancient peoples, whose career is already ended, are peculiarly instructive, in that their whole development lies completed before us. So that where in the modern economy a tendency can be shown similar to the old, the parallel furnishes us with a priceless clue to the estimate to be formed of it.

4. The historical method will not be quick either to praise or blame any economic institution absolutely; as, indeed, it is certain that there have been few institutions that have been wholesome or harmful for all peoples and all stages of civilisation. The leading-strings of the child, the crutch of the aged, would be unbearable by the grown man. On the contrary, it is a principal task of science to show how and why from reason has gradually arisen folly, from a benefaction a curse. No doubt the man of genius, although his study of the matter in hand may have been but slight, will easily

distinguish the essentials, which are the main things in practice and readily separate the effete from the living. But what teacher can plan his lectures for none but men of genius? As a rule, he alone can rightly judge when, how, and why, e.g., land taxes, feudal dues, gild privileges, the monopoly of trading companies, must be abolished, who has completely understood why at one time they had to be introduced. Yet it is not to be supposed that this teaching will make practice easier, like a *pons asinorum*. Indeed, it will add to its difficulties, since it will call attention to the thousand and one considerations which have to be taken into account at every step of the legislator or administrator.

It will be seen that this method aims at much the same result for political economy as the method of Savigny and Eichhorn has attained in jurisprudence. It is remote (*liegt fern*) from the school of Ricardo, although in itself it by no means opposes it, and thankfully seeks to make use of its results. For that very reason it is nearer to the methods of Malthus and Rau. And, far as I am from holding that it is the only way to truth, or even the very shortest, I am equally far from doubting that it leads through districts of peculiar beauty and fruitfulness, and that, once properly cultivated, it will never be quite abandoned. To history, historical economics can, and ought to, render somewhat the same service as histology and organic chemistry render to-day to natural history.

That I have throughout inserted in the outline a treatment of economic policy and of measures for promoting prosperity (*die Wirthschafts- oder Wohlfahrtspolizei*) will not surprise any one after §§ 3 and 4. The other main division of administrative science (*Polizeiwissenschaft*)—namely, legal administration (*Rechtspolizei*)—I am accustomed to discuss in my lectures on Politics (*in politischen Vorlesungen*), where general administrative institutions and principles find a suitable place. It may be rather more surprising that I should have placed the literature of political economy at the end of the whole rather than after the Introduction, as is the custom. But I know from experience that, when one follows the latter plan, it is either impossible, or possible only with an infinite expenditure of time, to turn the list of names into a succession of lifelike and well-grouped characterisations. But at the end, when the hearers already know something of the science, each book can be described in few words, and therewith may be combined a wholesome repetition of the most difficult and controverted subjects.

GÖTTINGEN: Easter 1843.

The statement of Roscher's position here given needs, however, to be supplemented by the first part of the 'Grundriss' itself, the

INTRODUCTION

§ 1. METHOD OF THE POLITICAL SCIENCES IN GENERAL

1. *Distinction between the Historical and the Philosophical Methods.*—The philosopher seeks after a system of concepts or judgments as abstract as possible—i.e. divested as much as possible of the contingencies of space and time; the historian, a delineation of human developments and relations, as closely as possible copied from real life. The former has explained a fact when he has defined it, and no concept appears in his definition which has not been already examined in the earlier portions of his system: the latter [has explained a fact] when he has pictured the men by whom and for whom it came to be.

2. *Subjective Character of the Philosophical Ideals of the State.*—The commonest form under which the philosophical doctrine of the state appears is that of the ideal state. Divers expressions for it. Great differences both in fundamental ideas and in results. Yet almost all ideals, abstract as they may appear at first glance, are only somewhat improved copies of the conditions which actually surround the author, or which the party of the author seeks to introduce. The same thing with the laws of nature and æsthetics. The only exceptions are the eclectics, and those philosophers of originality who avoid all detail. Proof of the proposition from the leading theorists of modern times: Machiavelli, the reformers, the Jesuits, the absolutists of the seventeenth century, Locke, Montesquieu, the revolutionaries, the reactionaries, the constitutionalists. The case the same even with Plato. Explanation of this law: the influence of great theorists usually rests upon their giving scientific expression to the dim feelings and unexplained wishes of their contemporaries, and furnishing them with scientific justification. But the real needs of a people must always, in the long run, be actually satisfied. It is only when, by the passage of generations, a people has gradually become something different that the individuals, who also have now changed, really come to need changed institutions. Such crises, when they are passed through in a legal manner, are called reforms; when with violence, revolutions. And thus when two philosophers work up into systems the differing political creeds of two parties, they do

not, regarded historically, contradict one another. Each may be justified for his own people and his own time.

3. *Historical Method.*—Examination of the political impulse among men, which can only be investigated by means of a comparison of all known peoples. What is uniform in the development of the different peoples put in the form of a law of development. Work of the historian and of the student of natural history similar. This historical method has, in any case, if it does not altogether go astray, objective truth. It is most instructive for the men of affairs, less indeed through immediate precept than by the formation of general political sense. Its highest aim is to hand on to posterity in scientific shape the political results to which humanity has attained.

Section 2 is given up to definitions, which need not be cited here.

§ 3. Position of Political Economy in the Circle of the Political Sciences

Political Economy (*Staatswirthschaft*) is the doctrine (*Lehre*) of the laws of development of the national economy (*Volkswirthschaft*).

1. *Relation to the Cameral Sciences.*—Short literary history of the Cameral Sciences. The Cameral Sciences, or Private Economics (*Privatökonomik*), divided into Agriculture, Technology, Commercial Education, Forestry, and Architecture. Their object is to represent the present position and the most advantageous methods of the various branches of industry. Therefore, necessary auxiliaries to Political Economy. But, while the Cameralist has to do with things themselves, things interest the economist only so far as they affect human, and especially political, relations.

2. *Relation to the Other Political Sciences.*—Politics is the doctrine of the laws of development of the state as a whole. Political Economy an especially important part thereof, and therefore one worked out with especial detail. International Law has the same relation to Politics: it is the more complete presentation of the foreign relations of the state. Important subdivisions of these branches: Financial Science and Diplomacy. Under Administration (*Polizei*) we understand the action of the state designed for the direct maintenance of external order. So Administration forms one side of what is peculiarly called Politics (as legal administration), just as it does of Political Economy

(commercial policy, policy as to transportation, &c.) and of International Law (foreign relations). While the sciences just named discover the laws of development of the state from the study of all periods and peoples, Statistics is a representation of existing states under the guidance of these laws. General *Staatsrecht*, Positive *Staatsrecht*.

3. *Value of Political Economy.*—Indispensability of Political Economy to any well-founded opinions upon the state, especially in our times. Warning, on the other hand, against one-sided overvaluation of material interests. The political and the economic side of the science to be equally emphasised.

§ 4. Survey of the Following Course of Instruction

Comparison of the 'General Part' with Mathematics, though it rests simply on psychological experiences. How far, then, it is appropriate to express politico-economic relations in algebraic formulæ. Explanation of the terms National Economy, *Volkswirthschaftslehre*, Finance. Whether we can omit Economic Policy and Financial Science from Political Economy. Recommendation and characterisation of the systems of Ad. Smith, J. B. Say, Ricardo, and Rau, and *Patriotische Phantasieen* of J. Möser, which are to be used side by side with the lectures.

MEDIÆVAL AGRARIAN

THE HISTORY OF ENGLISH SERFDOM[1]

The history of dogma possesses a peculiarly fascinating interest: it abounds in illustrations of what we may call *collective* mental processes. And this interest is not confined to the dogmas of theology; it is provoked by dogmas of every kind—by the dogmas of history itself. Such a dogma, for instance, is what is known as the *mark* theory.[2] This is the theory that English social history began with the occupation of the country by groups of independent freemen; that these settled down in free village communities, with common ownership of the area they cultivated; or, if, as some thought, our forefathers had already arrived at the idea of private property in the arable fields, that primitive communism survived in their common ownership of the pasture and adjacent waste; and that the lord of the manor was a comparatively late comer, who contrived in divers ways to depress the villagers to the condition of serfdom. All this happened, it was supposed, in the period between the conquest of England by the English and the conquest

[1] [*Economic Review*, April 1893; apropos of *Villainage in England*, by Paul Vinogradoff, Professor in the University of Moscow. 1892.]

[2] [As to the use of the term *mark* for the *village community*, which has lately been spoken of as an English misunderstanding, see *infra*, p. 161.]

by the Normans, and by the latter conquest the process was consummated.

The appearance of this doctrine in Oxford was, I should imagine, roughly coeval with the establishment of the separate Honour School of Modern History in 1872. Up to that time, so far as English history was studied at all, the usual textbook was Hallam; and Hallam does not seem to have even suspected the existence of any such institution as the free village community. He laid down, without any misgivings, that in the Anglo-Saxon period 'there were two denominations of persons above the class of servitude, *Thanes* and *Ceorls*, the *owners* and the *cultivators* of land.'[1] A *ceorl* might occasionally have land 'of his own;'[2] and he explained, in a later note, that it was a mistake to speak of the *ceorl* as 'legally in servitude.'[3] But, nevertheless, he believed that he 'was not generally an independent freeholder,'[4] and that the *ceorls* as a class were 'obliged to reside on the lands which they cultivated.'[5] But all these ideas vanished soon after 1872. In 1871 had appeared Sir Henry Maine's 'Village Communities in East and West,' in which the *mark* was treated as being, so far as Germany was concerned, absolutely demonstrated by the researches of Georg von Maurer; so that all that was left was to apply his conclusions to England, and illustrate them from the records of other nations, notably of India. Then, in 1873, appeared the first volume of Dr. Stubbs's 'Constitutional History,' which transferred to England, cautiously and with reserves, yet unhesitatingly in the main, the doctrines of the whole Teutonist school of constitutional historians, represented by Waitz—doctrines of which Maurer's *mark* theory was a consistent part. The new Honour School called for a new body of tutors: these tutors were just then emerging from pupilage; and the mark theory became in an amazingly brief period the accepted tutorial doctrine. It appealed to many of the strongest feelings of academic man. It was new, and therefore enlightened: on the other hand,

[1] *Middle Ages* (ed. 1878), ii. 275. [2] *Ibid.* p. 276.
[3] *Ibid.* p. 370. [4] *Ibid.* p. 366. [5] *Ibid.* p. 370.

the example of Dr. Stubbs showed that it was compatible with great learning and unimpeachable Conservatism. Moreover it was admirably adapted to the exigencies of the modern tutorial method, which tempts the teacher to put his instruction into the form of neat *tips*, and leaves him scant time or inclination to revise his system.[1] Thus it was that the mark theory arose almost at once to the majestic height of unquestionable truth, in a way which Oxford men of an earlier date can hardly realise. When, some time about 1880, Mr. Denman Ross came to Oxford, and ventured to express his doubts as to Maurer's use of his authorities, we Oxford undergraduates, who never by any chance had looked at any one of the original authorities —except fragments of Cæsar and Tacitus—regarded him as an amiable maniac; and, in the columns of the 'Saturday Review,' he was promptly butchered to make an Oxford holiday.

But these halcyon days were not destined to last. In 1883 came forth Mr. Seebohm's 'English Village Community.' This presented the subject in such an entirely new light that the first feeling was one of blank bewilderment. It was true, Mr. Seebohm told us, that early English society was organised in groups so closely bound together that they may properly be spoken of as 'village communities;' but these communities, he went on to argue, were 'communities in serfdom under a manorial lordship,'[2] and this would seem to have been their character from the very beginning of English history. Such a proposition called for the reconsideration of the whole of the accepted doctrine of early constitutional development; and this was too much to expect from mortal men. Accordingly, what Oxford criticism

[1] [If there seems some acerbity in this language, the writer can only plead that he was himself a 'coach' in Oxford between 1881 and 1885 and a college tutor between 1885 and 1888, and is conscious that the environment had this effect on *him*. That the tutorial system has many and great merits will be found expressly recognised in the papers on academic life which conclude this volume.]

[2] Preface, p. ix.

first saw in Mr. Seebohm's book was the weakness of the chain of argument by which he sought to connect the manorial system with the Roman; and there was a marked disposition to push his book on one side as undeserving serious attention. But 'Peace! peace!' was cried in vain. It was the peculiar ill-luck of the tutorial teaching to be wounded in the house of its friends. Mr. Seebohm, himself, before he set out upon his mad course, had been an honoured name in Oxford: his 'Oxford Reformers' had for some years been one of the chief sources of 'ideas' on sixteenth-century history. And now another venerated name joined the enemy. The 'Cité Antique' of M. Fustel de Coulanges had, not long before, been the most 'paying' of all 'paying' books for scholarship examinations and for 'Greats.' It had become almost a classic; and, to judge from his long silence, M. Fustel de Coulanges would seem to have already joined the other writers of classics. But he had not: he had only been quietly studying mediæval history; and now, in 1885, he gave to the world a volume of 'Recherches,' in which he also maintained that the primitive free-mark community was a figment of the Teutonic brain. It was, indeed, only the German evidence which he examined; but, as the argument for its existence in England had always rested on the supposition that in Germany it was beyond question, this was very serious. To make matters worse, it began to be noticed that Professor Maitland, who, with a happy freedom from the tutorial system, was reconstructing legal history far away in the recesses of Cambridge, actually spoke of Mr. Seebohm with a certain respect. Finally, in 1888, Professor Earle reminded us in his 'Land Charters' of a fact we had almost forgotten, viz. that of direct evidence for the *mark* there was not a particle to be found in Anglo-Saxon documents—whatever there might be of indirect.

At this moment of gloom, hope sprang up in the hearts of the beleaguered garrison of the *mark* citadel. Far away in the remote East was seen the shining helmet of an approaching deliverer. Professor Vinogradoff, of the University of Moscow, had been studying early English agrarian

conditions: in his visits to England he had won the hearts of all the scholars he had come across: and now it was spread about that a book of his, for the time locked up in Russian, but shortly to issue forth in English from the Clarendon Press, was to smite the infidel hip and thigh. There was a hush of expectation as the champion drew near. Venturesome persons, who dared meanwhile to 'commit themselves,' as it was called, 'to Mr. Seebohm's theory,' were rapped sharply on the knuckles. It was made a duty to wait for the Russian scholar's pronouncement.

At last this came in 1892, and Professor Vinogradoff's 'Villainage in England' saw the light. Yet, now that the first glow of excitement is over, and the book has become a part of our ordinary studies, one cannot help seeing that the hopes with which it was awaited were altogether disproportionate—and this from no lack of learning in the author. It is the common feeling, I think, of all who have seriously examined the problem that, after all, Mr. Vinogradoff's book leaves the question very much where it was before. It is a learned book; it is an interesting book; it is a suggestive book: but it is not a decisive book.

Professor Vinogradoff has devoted ten years or more to the study of all the printed materials bearing on English rural conditions in the thirteenth and fourteenth centuries, and of great masses of unprinted material; and to this power of application he joins a rapidity of perception which approaches genius. He has arrived at a knowledge of legal opinion and procedure in those centuries which would be more than worshipful in an Englishman, and is nothing less than terrifying in a foreigner. Could he have been borrowed from a later age and transferred from the professor's desk at Moscow, in the nineteenth century, to the English judicial bench in the thirteenth, his colleagues would never have discovered that he had not always been one of themselves; except possibly in 1279, when he would have felt it necessary to dissent from the unanimous judgment of eight of his brethren, with the Chief Justice at their head.[1] No wonder

[1] *Villainage in England*, p. 119.

that modern English lawyers are carried off their feet by admiration. But it does not follow that because a scholar can unravel the inconsistencies of legal opinion in a given century, he is to be followed in his explanation of the way those inconsistencies had come about; and Mr. Vinogradoff's book illustrates throughout the difference between legal analysis and historical construction.

It consists of two essays, of which the first, on 'The Peasantry of the Feudal Age,' is in the main a discussion, based on legal evidence, of the personal status of the villeins; the second, on 'The Manor and the Village Community,' is a discussion of the system of joint agriculture revealed by manorial documents. Each of these contains an abundance of information on thirteenth and fourteenth century conditions; much light is cast on the position of the villein class, and the circumstances of their life; and the work will long continue to be one which the economic historian will have to consult when he deals with that period. But Professor Vinogradoff's interest is not in the facts of the period for their own sake, but for the help they furnish in the study of social origins. All his material—with occasional parentheses—is therefore arranged in such a way as to present a *case*. This case in the first essay is, as he puts it in one place, that 'freedom' was 'an important constitutive element in the historical process leading to feudalism.'[1] But this is a proposition which, in one sense, no one would care to deny. Every one, I should think, would recognise, on general historical grounds, which I need not enter upon here, that it is very improbable that the villein population of the thirteenth century were descended *entirely* either from slaves or from persons who had always been in subjection to a lord. Mr. Seebohm holds that the organisation of the Roman *villa* had great influence on the development of the English manor; but both Mr. Seebohm and M. Fustel de Coulanges have laid great stress on the degradation of free tenants into dependent *coloni* as an 'important constitutive

[1] P. 208.

element' in the formation of the villa system.[1] Then, after the English had conquered Britain, and, as Mr. Seebohm supposes, taken control of the villa-groups which they found, the same writer points out how independent freemen would be drawn into the servile circle, and the 'community in serfdom on a lord's estate recruited from above and below.'[2] The question is not whether freedom was an important element; but *how* important it was, and *when* and *how* it entered into the historical process: and these are questions for Professor Vinogradoff's answer to which we must wait for a further volume. But even in his argument as he has so far presented it, there is much that is very open to criticism. His method may be characterised by the one word which he is so fond of employing; it is the method of *survival*.[3] He first expounds the strict mediæval theory of villein status; then he finds local exceptions, divergencies of opinion, occasional *dicta*, &c., which seem incompatible with the strict theory, and appear to indicate a greater freedom than the strict theory allows; and these are set down as *survivals* of an earlier condition. Now, it cannot be denied that there are parts of his argument which carry conviction with them; nor can it be asserted that Mr. Vinogradoff is blind to the possibility of another explanation of his facts than *survival*: but it is fitting to remark that Mr. Vinogradoff's preoccupation with his one idea leads him to look at possibilities a little too readily from one point of view. His method is identical at bottom with the method of Mr. Seebohm—the method of proceeding 'from the known to the unknown;' and he has himself called our attention to its obvious dangers.[4] But, while Mr. Seebohm sees survivals in the great broad facts of mediæval life, Mr. Vinogradoff's alleged survivals are found among the smaller and

[1] Seebohm, pp. 266 seq., 302 seq.; Fustel de Coulanges on *Le Colonat Romain* in *Recherches*; cf. Pelham, *The Imperial Domains and the Colonate*, pp. 12, 13.

[2] Pp. 405, 406; cf. Fustel de Coulanges' *Origin of Property in Land*, Engl. trans., Introduction by the present writer, p. xxxix.

[3] *Villainage*, p. 134; cf. pp. 75, 192 et passim. [4] P. 38.

more exceptional facts; and perhaps for that very reason they demand more careful scrutiny.

Let us take an example. Bracton says in one place that the villein has an action against his lord if the lord should take away the villein's *wainage*, i.e. plough and plough-team. This remark, Professor Vinogradoff notes, 'is quite out of keeping with the doctrine that the villein had no property to vindicate against his lord; . . . it is not supported by legal practice in the thirteenth century, and it is omitted by Bracton' when he touches upon the subject later.[1] Hence, our author tells us, 'it cannot be explained otherwise than as a survival of a time when some part of the peasantry was possessed of civil rights and of the power to vindicate them.' But why are we shut up to this explanation? Professor Vinogradoff tells us repeatedly that 'the (law) courts' of this period 'proclaimed their leaning "in favour of liberty" quite openly;'[2] and he implies that it would be quite justifiable to regard this partiality of the law as being in some cases 'a consequence of enlightened and humanitarian views making towards the liberation of the servile class.'[3] Why should we not regard the remark of Bracton as itself an instance of this humanitarian tendency? It is difficult to see why the one explanation is not as likely as the other, unless we start with an assumption.

Take another instance. There was a celebrated case of Montacute *v.* Bestenore, which was decided in 1220; and, resting upon the decision, Bracton laid down that if a *free* man held in villeinage by villein services he could not be ejected by the lord, provided he was performing the services due from the holding. Bracton appeals also to a decision granting an assize of *mort d'ancestor* to a *free* man holding in villeinage. What is Mr. Vinogradoff's comment? It is that this view 'places villeinage substantially on the same footing as freehold,'[4] and that 'these instances go clean against the usually accepted doctrine that holding in villeinage is the same as holding at the will of the lord.'[5] But does this

[1] Pp. 74, 75. [2] P. 84. [3] P. 86.
[4] P. 80. [5] P. 81.

follow? When the lawyers laid down the doctrine that holding in villeinage was the same as holding at the will of the lord, did not they have in their mind the normal case where the holding in villeinage was *by a villein*? And is it not more than possible that, in the two cases relied on by Bracton, the new doctrine was due to the introduction of a new element, viz. the holding by a *free* man? It is true that according to current theory the phrase 'in villeinage' implied a holding at will; but is it not likely that this consideration was outweighed in Bracton's mind by the fact that the tenant was a *free* man with whom an implied *contract* was possible? That seems to me quite as likely a supposition as that we have here a 'remnant' of forgotten rights. It must, indeed, be mentioned that Mr. Vinogradoff supports his contention by citing one case where it was held that a *villein* had a right, which the courts would protect, to retain his land in spite of his lord, on performing 'predictas consuetudines.' Before basing much upon this case one would like to know what 'predictæ consuetudines' were: they may have included more or less arbitrary claims at the will of the lord. But supposing that they were fixed, and that the decision really gave the villein security of tenure, then it must be noticed that 'the decision is quite isolated, and goes against the rules of procedure.' If it is not a mere 'mistake,' as even Professor Vinogradoff seems inclined to regard it, it may with some probability be attributed to those 'humanitarian' views to which we have already referred. In any case it loses very much of its force as a proof of survival when it is dissociated from those cases concerning free men with which in principle it has clearly nothing to do.

There is a long chapter on 'Ancient Demesne,' with much that is interesting, and not a little also that the non-legal reader finds it hard to follow. A large number of the villeins on the ancient demesne of the Crown were certainly, in the language of the time, 'privileged;' i.e. they 'enjoyed a certainty of condition protected by law,'[1] and defendable in the courts of the manors of which they held. The

[1] P. 89.

circumstance seems to prove that this particular class of villeins on these particular manors had for some time been in a position in important respects different from that of most villeins elsewhere. But it does not *prove* more. And when Professor Vinogradoff pronounces that the ancient demesne tenure is 'a remnant of the [general] condition of things before the Conquest,' and that 'the effect of conquest was to narrow to a particular class a protection originally conferred broadly,'[1] he is following the high *à priori* road. That this is the correct explanation is precisely what has to be proved. Mr. Vinogradoff's countryman, Mr. Kovalevsky, who shares the predisposition to see the free community everywhere, has nevertheless suggested that the law of ancient demesne was imported from Normandy. This suggestion may be inacceptable on other grounds; but the only grounds for rejecting it stated by Mr. Vinogradoff are these:

> Whatever the position of the villeins was in the Duchy, Norman influence in England made for subjection *because it was the influence of conquest*. It must be remembered that, in a sense, the feudal law of England was the hardest of all in Western Europe, and this on account of the invasion.[2]

Surely the first sentence here quoted is pure *à priori* reasoning. The Norman influence of which Mr. Kovalevsky was thinking was the influence of the king; and what reason is there for thinking that the influence of the Norman king tended towards the subjection of the *villeins*? Mr. Vinogradoff himself in another connection recognises the possibility that it was quite otherwise.[3] And the second sentence, in the natural sense of the words, seems to be *nihil ad rem*. The 'feudal law of England'—i.e. the law about wardship and marriage and relief, &c.—was the hardest of all in Western Europe, because the king's hand was heavy

[1] Pp. 123, 124. [2] P. 124, n. 4.

[3] First half of p. 135, and second half of p. 179. For some general considerations of importance, see Freeman's *Norman Conquest*, v. 384.

on his barons, not because of his relation to the working population.[1]

There is one minor part of Mr. Vinogradoff's argument as to ancient demesne where I should like to make a suggestion. There was a 'peculiar procedure provided for the privileged villeins, whereby they could secure the revision by the courts of common law of the action of the manorial courts in cases concerning their tenements.'[2] This, we are told, 'shows *conclusively*' that the advantage enjoyed by such villeins 'was only an instance and a variation of the general law of the land, maintaining actionable rights of free persons.' The 'substance' of these rights is, in short, a survival from Saxon times.[3] But is there not another explanation possible? The key to mediæval villeinage, as Mr. Vinogradoff points out again and again, was 'territorial lordship.'[4] Hence an ordinary lord's villein could not be allowed to appeal to the king's court, because by so doing he would lead to an infringement upon his lord's territorial power. But this result would not seem to arise if the villein were a villein on one of the king's manors. To appeal from the manorial court to the courts of the king's justices would only be appealing from a lower to a higher court of the same lord, and would not appear to detract from his authority. We modern constitutionalists can, of course, distinguish clearly enough between the king's authority as landlord and his authority as national sovereign; but it may be doubted whether the distinction was so clear at the time when the common law courts were just coming into existence. And since this suggestion occurred to me, I have noticed that Mr. Vinogradoff hints at the same thing:

[1] Several other explanations are possible, and one well worth considering is that the favoured tenants on demesne were descended from *coloni* on imperial estates (cf. Fustel de Coulanges, *L'Alleu*, pp. 55, 71; and on the retention of their identity by imperial estates into mediæval times, Pelham, pp. 6, 7). Mr. Kovalevsky's suggestion is cited to show (1) that the facts do not suggest the same inference even to a scholar predisposed to accept it, and (2) that Mr. Vinogradoff's reasoning is unconsciously *à priori*.

[2] Pp. 99, 100. [3] Pp. 123, 124. [4] Pp. 57, 58.

The curse of villeinage was that manorial courts were independent of superior organisation as far as the lower tenants were concerned. But courts in royal manors were the king's courts after all, and as such they could hardly be severed from the higher tribunals held in the king's name.[1]

Considerations of this kind might naturally lead to a connection between them as soon as the *curia regis* began to extend its action over the kingdom; and, if so, what becomes of the 'survival' argument?

In the latter part of the first essay Mr. Vinogradoff labours to prove that there was a considerable class of 'free peasantry' in the thirteenth century. He recognises most distinctly that in a very large number of cases the appearance of 'free tenure' was simply the result of a commutation of labour services for money payments.[2] But he argues that many cases are instances of survival.

They may have come from an old stock of people whose *immemorial* custom has been to pay rent in money or in kind, and who have always remained *more or less free* from base labour.[3]

I have italicised some words in this sentence to show that, even if we could prove the existence of this class of dependent cultivators, subject to superiors but free from some of the more degrading incidents of ordinary villein life, we should still be far away from independent self-governing members of free village communities. But let us examine in detail some part of the argument. Take the case of the *hundredors*.[4] We frequently come across manorial tenants in the thirteenth century who are termed *hundredors* because they are bound to appear in the hundred court. They are clearly members of the villein body; on the other hand,

their tenure by the 'sergeanty' of attending hundreds and shires ranks again and again with freehold. Does it not seem at first sight that the case of the hundredors (i.e. their being regarded as free tenants) is simply a case of exemption (i.e. from labour, in return for their undertaking the duty of attendance), and exactly

[1] P. 125.
[2] Pp. 178 seq., 310.
[3] P. 188.
[4] Pp. 188 seq.

on a parallel with the commutation of servile obligations for money?[1]

It certainly does. Why, then, does Mr. Vinogradoff reject this view? For three reasons chiefly, so far as I can make out. First, we find the requirement in some cases that the priest should go with the other four or five representatives. This 'presence of the priest warns us that we have to reckon . . . with a *survival*, with an element of tradition and not of mere innovation.'[2] It is not easy to see why. There is no evidence, as far as I know, of the presence of the priest in the courts before the so-called 'Laws of Henry I.;' and even they imply that the proper thing was for the lord or his steward to be present, and that the reeve, priest, and four best men were only called upon to attend if the lord or steward were obliged to be absent.[3] After two minor arguments, based upon Britton and the Assize of Clarendon, which limitations of space compel me to pass over, and upon which Mr. Vinogradoff himself lays no great stress, he returns again to the 'Laws of Henry I.' He points out that the interchanging representation of the *vill* in the hundred by the lord or steward, and by the six men, illustrates the fact that it was the territorial unity that was represented, and not classes. But then 'the question arises naturally, where is one to look for the small freeholders in the enactment? However much we may restrict their probable number, their existence cannot be simply denied or disregarded.' And hence they must have been 'included in the population of the township' represented by the six hundredors.[4] But, again, why cannot we suppose that the number of freeholders, other than lords of land, was at that time too small to be taken into account? Mr. Vinogradoff is of course very well aware that it is a capital point in Mr. Seebohm's theory that the fact that Domesday does not mention free tenants in the greater part of England proves that there were none at that time. But he has a view of

[1] P. 191.
[2] P. 192.
[3] 'Si uterque necessario desit.'
[4] P. 193.

his own about Domesday which he is to give us by-and-by; and for the present he rules the Survey out of the discussion. Yet, if we take a manor for which we have later evidence at different periods, we find that as we go back the number of freeholders diminishes. Thus there were in the manor of Beauchamp, belonging to the chapter of St. Paul's, thirty-four freeholders in 1222; forty-one years before, in 1181, there were only eighteen. Is it not altogether likely that the further back we could go, the fewer free tenants we should find? That the freeholders were 'specially privileged villeins,' and, as a class, of feudal and post-Conquest origin, was maintained on grounds like these long before Mr. Seebohm by an independent scholar—Professor Allen, of the University of Wisconsin—in spite of his own strong leaning towards the free-community view.[1] In the present state of our knowledge, then, the smaller freeholders circ. 1100 may be 'disregarded' with some show of reason. For his final argument, Mr. Vinogradoff makes use of the next clause in the 'Leges Henrici:'

> In the great hundred for the view of frankpledge . . . all men are to *appear* who are 'free and worthy of their *were* and their *wite*; this . . . includes distinctly the great bulk of the villein population as personally free.[2]

Now, if our author had quoted 'Leg. Hen. I.' c. 8, § 1—'*conveniant* . . . quicumque liberi'—he might possibly have made out something in behalf of his contention, though, on the face of it, it seems rather to tell against him. But the phrase about 'were and wite' comes from § 2, which says nothing about *attendance*. 'Quisquis weræ vel witæ vel jure liberi dignus curat æstimari' is, from the twelfth year of his age, to be '*in* hundredo et decima vel plegio liberali.' He is to be 'in a hundred'—whatever that may mean—for police purposes, not to *attend* a hundred; unless it is held also that he is to attend it from the age of twelve, and also to 'attend' a frankpledge! It must be allowed, I think,

[1] See his paper on 'The Origin of the Freeholders' (1877), reprinted in *Essays and Monographs* (Boston, 1890); [and the review *infra*, p. 82].

[2] Pp. 193, 194.

that however impressive Mr. Vinogradoff's reasoning may be, it is not strengthened by these particular arguments.

In the concluding chapter of the first essay Professor Vinogradoff arrives at a further and more wide-reaching contention than that with which he has, as a rule, previously contented himself. It is that the analysis of legal theory shows three stages of development.

> The three tests of freedom applied by our documents are connected with each other by the very terms in which they are stated, and at the same time they present three consecutive stages of development. The notion of serfdom was originally confined to forms of personal subjection and to the possession of land under the bane of personal subjection: in this sense servitude is a narrow term, and the condition noted by it exceptional. In its second meaning it connects itself with rural labour, and spreads over the whole class of peasants engaged in it. In its last and broadest sense it includes all the people and all the land not protected by the Common Law.[1]

Hence the villeins as a class are to be regarded as 'customary freeholders who have lost legal protection.'[2]

The reader must not fail to observe that the evidence here adduced is not evidence as to a change in physical conditions, but evidence concerning a supposed widening range of legal definition. But this throws no light on the genesis of the economic situation now in question. It might be supposed to do so, by those unfamiliar with the technical meaning of 'freeholders;' though Mr. Vinogradoff does his best to warn them by inserting the adjective 'customary.' Our author does not mean that these supposed 'freeholders' were independent owners, like the American farmers of to-day. He would allow that they were members of the groups known after the Conquest as manors; that they were dependent upon lords, and bound to render to them most burdensome services—labour two or three days a week all the year round, and almost all their time at busy seasons. That these agricultural dependents should in A.D. 1000 have been technically free men, and in A.D. 1200 technically not free,

[1] P. 217. [2] P. 220.

although a notable difference, need not have been, from the economic point of view, a matter of great moment. They would not have been able, at the later date, to appeal to the national courts to maintain their rights; but this temporary loss of civil rights might very well have been concurrent with an improvement in economic condition.[1] Moreover, we are not yet in a position to say to what extent a technical freedom of the tenants and a theoretic ability to appeal to the national courts—if it existed—would actually have protected them. Mr. Vinogradoff himself gives several examples of the inability even of persons possessing rights recognised at common law to enforce them against their lords, and this at a time when the central government was incomparably stronger than before the Conquest, and when it made itself felt through the itinerant justices in every corner of the kingdom. We may fairly conjecture that in earlier centuries—when the very existence of royal courts practically accessible to the masses of the people may well be doubted—the nominal possession of rights would have been far less beneficial. This is indeed an instance of both the strength and the weakness of the purely legal method. The question at issue is primarily an economic one, the origin of the dependent agrarian group; and Mr. Vinogradoff's contention, even if he had proved it, does not touch this problem. If he went no further than he goes in this first essay, he would go no whit beyond Palgrave and Hallam, both of whom laid stress on the *freedom* of the ceorls, but also both believed that they occupied substantially the same economic position as the later villeins. Mr. Seebohm, wishing to emphasise the economic dependence of the cultivators of the soil, naturally used the terms 'serfs' and 'servile' in the loose modern sense of persons in a position intermediate between what we commonly understand by freedom and what we commonly understand by slavery. Mr. Vinogradoff has seized upon the term, and now seems to think that if he can prove the legal freedom of the villagers, he has cut away Mr. Seebohm's foundation. But Mr. Seebohm had

[1] Cf. pp. 180, 181.

already anticipated him, though not perhaps in language of technical accuracy.

> In one sense, both in England and Germany the holders of the yard-lands and 'huben,' though serfs, were *free*. As regards their lords, they were *serfs*. As regards the slaves, they were free.

And he makes up for the want of legal phraseology by adding a parallel which even technically is very close to the alleged position of the ceorl: 'In this respect,' he says, 'they resembled very closely the Roman *coloni* on a private villa.'[1] To say this over again at greater length hardly advances the solution of the problem.

The second essay collects a wide array of facts touching the agricultural side of manorial life in the thirteenth century, and it will be an indispensable storehouse for the student of the period. But the main outlines of the agrarian system had already been laid down; and Professor Vinogradoff introduces no considerable change. Evidence is accumulated for what is beyond question; where it is really most needed —to support the author's suggestions as to the antecedents of the manor—it is often inadequate. We may begin by referring to a contention to which Professor Vinogradoff clearly attaches great importance. It is that the 'labour-system' upon the manors was preceded by what he calls the 'farm-system' (from a use of the term *firma* which we need not pause to explain), i.e. a system of food-rents.[2] There are several cases recorded in the twelfth and thirteenth centuries where each of the manors belonging to some great lord was expected to render to him food of various kinds sufficient to maintain his household for a certain period. Now, in no case, so far as I can see, are we told that tenants were individually bound to render such quantities of food as would make up the total, and that they had no other dues either of labour or of any other kind to render. But this is clearly what Mr. Vinogradoff supposes; and he assumes without evidence that the labour-services of individual tenants are

[1] *English Village Community*, p. 407. [2] Pp. 301 seq.

a later substitute for this more primitive system. Then, having assumed this transition, he proceeds to contrast the one stage with the other. But it remains to be proved (1) that the food-rent system was of the kind he supposes, and (2) that it was replaced by the labour-system. As to (1), we find that in the only case where we have detailed information, that of the estates of St. Paul, the food-rent was the result of an arrangement with the canon who 'farmed' each manor; and that it was paid out of the total gains in money or in kind, as they were obtained by means of the various dues required from the tenants, and chiefly, of course, by the week-work. The food-rents in the St. Paul's case were simply the form taken in a 'natural economy' by the results of the labour-system itself. Certainly the week-works were demanded on those manors as elsewhere. Why should we not suppose that that was the case in the other instances? Moreover (2), what replaced the food-rent system was, so far as our evidence goes, *not* the labour-rents—which had long existed—but the payment of a sum of money by the bailiff or other manager of the demesne in lieu of food. Surely Professor Vinogradoff is confusing two things—the individual duties of each tenant, and the form in which the proceeds of manorial farming were forwarded to the lord.

There is the same lack of proof in an argument as to freehold virgates. Many of these, he allows, are evidently the result of commutation. But others 'seem to be ancient and primitive.'[1] The traits which mark them are 'share-holding'—i.e. that they are virgates in the open fields with appurtenant pasture, and light rents. 'In regard to duties, they are practically outside the community.'[2] These data are open to a good deal of criticism; but suppose we grant them, what then? Then they 'imply manorial relations *superimposed* on a village community.'[3] But where is the *sequitur*? A body of twenty persons is found, of whom nineteen hold shares in the village lands with labour dues; the twentieth holds a share, but is free from the labour dues: *therefore*, it is argued, manorial relations have been *super-*

[1] P. 345. [2] P. 347. [3] Cf. p. 349 with p. 353.

imposed on the whole body of twenty. Is it not equally easy to suppose that groups, which we may for brevity call manorial groups, having somehow or other already grown up, certain new comers had been admitted to a share in the lands without being subjected to the burdens of those they joined? We can imagine this to have taken place if Saxon warriors settled down side by side with bodies of provincial serfs on Roman villas; and, with still greater likelihood, if Danish warriors settled down by the side of dependent Saxon villages already constituted. This would seem to explain the striking fact that *freemen* and *socmen* are recorded in Domesday only in the districts affected by Danish occupation. At any rate, it is as likely a supposition as that of a free community falling into subjection but leaving a few survivors to tell the tale. And each is no more than a supposition until positive proof can be adduced.

We have looked now, I think, at most of the important *new* contentions raised by Mr. Vinogradoff. But there are two other points which I may notice in passing. Mr. Vinogradoff rightly lays stress on the strong communal tie binding together the manorial group. I have already, in another place, recognised that the origin of this communal bond is still an unsolved problem; and that this is the weak point in the theories of Fustel de Coulanges.[1] Perhaps we shall find its origin in tribal conditions preceding the manorial period. But Professor Vinogradoff presses this point a little too far. He notices that 'the manorial bailiff was matched by the communal reeve.'[2] But it is exceedingly improbable that the doubling of officers described by Fleta was general or ancient.[3] And a careful recent investigator of the Saxon evidence has come to the conclusion that 'in Saxon times . . . the duties performed by each of the later officers were undertaken by the one functionary, the *gerefa*,

[1] Introduction to *Origin of Property*, p. xlii. [2] P. 356.

[3] This suggestion by the present writer, in his *Econ. Hist.* I. i. 12, has been abundantly confirmed by the publication of the anonymous *Husbandry*, by Miss Lamond. See hereon, *Eng. Hist. Rev.* vii. 151.

who was appointed by the lord.'[1] Then, again, Mr. Vinogradoff argues that the open-field system, with its appurtenances, points to earlier 'practices of division of allotment,'[2] and he implies that this presupposes a primitive communism. Curiously enough, however, the custom of periodical division of lands in Russia, which writers have long been accustomed to regard in a similar way, has of late been declared by one of the strongest supporters of the free-village theory, Mr. Kovalevsky, to be of recent origin, and due chiefly to Peter the Great's imposition of a capitation tax.[3] I do not suggest that this *proves* the English usages to be due to some other force than the will of self-governing groups; but it suggests that we ought to hesitate before we pronounce every feature in the manorial life which at first sight strikes us as non-individualistic to be archaic and communistic. And as to the open-field cultivation itself with its intermixed strips, Mr. Vinogradoff 'o'erleaps himself and falls on the other' side when he insists that

> it is in full work in countries where the manor has not been established, and in times when it has not as yet been formed: we may take India or *tribal* Italy, for instance—

and that therefore the system 'is not a manorial arrangement, though it may be adapted to the manor.'[4] This, he thinks, tells against the manorial theory: 'all these features point to one source—the village community.' But we have no historical knowledge of any *village* community without a more or less manorial organisation; and Mr. Vinogradoff himself says that the open field is found in *tribal* societies. We may, therefore, with equal justice say that the open field 'is not a village arrangement though it may be adapted to the village.' Mr. Seebohm has expressly argued that the open field was a feature in the tribal agriculture of the Welsh and the Irish; that in Britain it was probably pre-Roman, 'so that what

[1] Andrews, *The Old English Manor*, p. 135. [Cf. *infra*, p. 153.]
[2] P. 403.
[3] Kovalevsky's *Modern Customs and Ancient Laws of Russia*, pp. 93–97.
[4] P. 400.

the Romans added to transform it into the manorial three-field system' was chiefly 'the three-course rotation of crops.'[1]

But we need not accept this particular explanation. We may suppose that the English themselves, when in a tribal stage, were acquainted with open-field agriculture. The vital point to observe is that certain 'communal' features of the later manor may just as well be ascribed to a tribal condition as to a free-village condition. The difficulty is to find room, between the tribal period and the manorial period, for a supposed free-village period for which, even Professor Vinogradoff would grant, no distinct positive evidence has come down to us. The mark hypothesis has, in short, served its purpose as a nucleus round which to accumulate facts; and it is now rather a hindrance than a help. It will be wise in future to drop it out of our minds as far as possible, and to concentrate our attention, *first*, on the analysis of tribal organisation, as we find it still existing in various parts of the world; and *secondly*, on the examination of that other great force which was at work in the formation of modern society, viz. Roman influence.

To judge from internal indications, Professor Vinogradoff set out upon his English researches a convinced 'markman.' Mr. Seebohm's book has made him hesitate a little; and his intention in writing the treatise before us was to hold the balance evenly as between the various 'elements' in the problem, the seigneurial and the communal, the servile and the free, and to present materials *towards* a final judgment. But the 'old Adam' frequently peeps out. What he presents tentatively in argument, he is apt to state positively in his summing up at the end of each chapter. Let me give an example. 'The manorial ceremony of surrender and admittance *may*,' he suggests, 'have gone back to a practice which was nothing to do with the lord's ownership,'[2] and he compares it with the practice described in the Salic law, where a middleman receives a rod from the outgoing owner and

[1] *English Village Community*, p. 411; cf. pp. 117 seq., 266 seq.

[2] P. 372.

gives it to the incoming, as a symbol of the transference of the property. This is a suggestion which deserves thinking over. But in his summary, Mr. Vinogradoff leaps all the way from supposition to proof, and lays down that the English conveyancing formalities actually '*go* back to very early communal practice.'[1] And the same unconscious prepossession sometimes leads him to state conclusions, needing to be carefully limited, in language which carries a much wider implication. For instance, he comments on the constitution of the manorial court at Stoneleigh—on the facts that 'the right and duty' of the *socmen* 'to give judgment' is emphatically stated, and that the acquiescence of the court is required for the admission of a new tenant.[2] Let us remember, however, that all these *socmen* were distinctly understood to be tenants of the lord of the manor; that they paid him an annual rent of one penny for each virgate, and took part in the harvest work upon his demesne; and that they paid heriots, and fines upon admission, and also fines upon the marriage of their daughters. I cannot discover how large the demesne was, but it was probably at least a third of the total area. When we remember all this, does it not seem an exaggeration to say that 'the Stoneleigh Register shows a closely and powerfully organised community, of which *the lord is merely the president*'? Mr. Vinogradoff is probably thinking only of the court itself; but his language will give an impression to many readers that is hardly borne out by the facts.[3]

I have perhaps said too much by way of criticism; yet it need hardly be remarked that criticism is perfectly compatible with admiration and gratitude. It is only when undue expectations are put on one side that we are able to see the book as what it is—a most valuable contribution to our knowledge of the thirteenth and fourteenth centuries.

[1] P. 396. [2] P. 382.

[3] It may be added, as not unworthy of consideration, that (1) the Stoneleigh Register dates only from 1392, and (2) that Domesday enters most of the tenants as villeins and only a few as socmen. The appearance three hundred years later of a greater number of socmen is most easily explained by commutation.

THE ANGLO-SAXON 'TOWNSHIP'[1]

In recent historical writing dealing with Anglo-Saxon conditions, a great place has been occupied by the 'township.' The example was set sixty years ago by Palgrave;[2] but it does not seem to have been generally followed[3] until in 1874 Dr. Stubbs gave the word a prominent place in his 'Constitutional History.' With Dr. Stubbs the 'township' was 'the unit of the constitutional machinery or local administration;'[4] and since then most writers on constitutional and legal history have followed in the same direction. The most detailed description of the township was given by Mr. Green,[5] who pictured for us its 'entrenchments,' 'the homes within its bounds,' and 'the dwellers in' it. Professor Cunningham has spoken of 'the lands they [*sc.* the English

[1] [*Quarterly Journal of Economics*, April 1894.]

[2] 'Anglo-Saxon state composed of townships.' *English Commonwealth*, i. 65, marginal abstract.

[3] 'Township' plays no part in the theories of Lappenberg, Kemble, Hallam (*Supplementary Notes*, 1848), and Freeman (*Norman Conquest*, 1867), and is barely mentioned by Pearson (*History of England*, 1867). The only writer, so far as I know, who attached much weight to Palgrave's phrases before 1874 was Sir Edward Creasy. 'We may safely follow him,' wrote Creasy in 1853, 'in taking the Anglo-Saxon townships as the integral molecules out of which the Anglo-Saxon State was formed' (*Rise and Progress of English Constitution* (ed. 1886), p. 45).

[4] *Constitutional History*, i. 88 (§ 39).

[5] *Making of England*, pp. 180–194.

invaders] had conquered' being 'apportioned among the warriors in townships.'[1] Mr. Dowell has given the word the sanction of the historian of taxation.[2] And, finally, Sir Frederick Pollock, after pointing out how unauthorised is the use of 'mark,' has observed that 'our proper English word [for 'the English village community'], and the only one for which there is ancient authority, is "township," *afterwards* latinised as "vill."'[3] From England the use of the term has passed to the United States; and it has been popularised especially by that group among the younger historians who have received their training at the Johns Hopkins University. Thus Professor Howard, in his learned and useful work on the 'Local Institutional History of the United States,'[4] begins by stating as an accepted fact that 'in the early records of English history the *tunscipe*, or township, appears as the lowest form of self-government and the primary division of the state.'

The language commonly used in this connection need not, perhaps, necessarily be understood as meaning that the phenomenon which the writers have in mind was actually known to the Saxons themselves as a 'township' (*tunscipe*). It may be said that 'township' is merely a modern name which it is convenient to apply to it. Yet, certainly, that language usually suggests that it was under that name that the Saxons knew it; and that was evidently the belief of Dr. Stubbs, when he spoke of King Alfred as having 'no difficulty in recognising in the *vicus* of Bede the *tunscipe* of his own land.'[5]

It is therefore of some interest, at least for historical terminology—and possibly for other and more important reasons—to point out that there is no good foundation in Anglo-Saxon sources for such a use of the term; that *tunscipe* in the few places where it does appear does not mean an area of land, an extent of territory, or even the material houses and crofts of a village; that it is probably

[1] *English Industry*, i. 60.
[2] *History of Taxation*, i. 5.
[3] *Oxford Lectures*, p. 124.
[4] i. 18.
[5] *Constitutional History*, i. 45 (§ 22).

nothing more than a loose general term for 'the villagers.' Some feeling that this is the case has probably occurred to many who have looked into the matter, but I do not know that it has ever been pointed out in print.

Only three passages in Anglo-Saxon literature have as yet been found in which the word *tunscipe* appears—the Saxon translation of Bede's Ecclesiastical History, v. 10, the Laws of Edgar, iv. 8, and the Saxon Chronicle, s. a. 1137. Of these the first is by far the most important, since it is supposed to establish the equivalence of *tunscipe* and *vicus*.

In his account of the murder of certain English missionaries among the Old Saxons—i.e. the Saxons of the Continent—Bede had paused to remark that 'the Old Saxons have not a king, but a great number of satraps set over their nation.' He then tells of the murder; and Dr. Stubbs thus comments upon the sequel: 'In connection with the same story the venerable historian describes one of these satraps as acting with summary jurisdiction on the inhabitants of a *vicus* which was under the mediate government of a *villicus*. King Alfred, when he translated Bede, had no difficulty in recognising in the satrap the *ealdorman*, in the villicus the *tungerefa*, in the vicus the *tunscipe* of his own land.'

Before looking more closely at the passage, two remarks are in place. The first is of trifling consequence. It is that the only scholarly editor[1] this old version of Bede has yet found is of opinion that its language is so evidently Anglian that it cannot possibly be attributed to Alfred, and assigns the earliest manuscript of it to the latter half of the tenth century.

The other consideration is more vital. In no other passage of this old English version is there any possibility of asserting that *vicus* is translated *tunscipe*. *Vicus* and *villa* are everywhere else, at any rate, represented by *tun*.

[1] Dr. Miller, in Introduction to the *Old English Version of Bede's Ecclesiastical History*. Early English Text Society, 1890.

The following is, I believe, a pretty complete list of the passages in Bede where *vicus* and *villa* appear :

iii. 16, viculis	= tunas.
iii. 17, villâ regiâ	= cynelecan tune.
iii. 17, villis regis	= cyninges tune.
iii. 17, vicus	= tun.
iii. 17, vicum	= tun.
iii. 21, vico regis	= tune cyninges.
iii. 22, villa regia	= cynelecan tuune.
iii. 22, vico regio	= cynelican tune.
v. 4, villa comitis	= gesithes tun.
v. 12, villulae	= tunes.

And now, on looking at v. 10, it will be seen that there also the anonymous translator puts *tun* for *vicus*. Bede tells us that, when the *satrapa* (ealdorman) of the Old Saxons heard of the murder, he was wroth, and 'mittens occidit *vicanos* illos omnes, *vicumque* incendio consumpsit,' which the translator renders 'heht thone *tunscipe* calne ofslean, and thone *tun* forbernan.' Thus *tunscipe* here is not a place, or an area, or a district, but a group of persons—*the vicani, the villagers, the people of the village.*

Before turning to the passage from Edgar's laws, let us look at the Chronicle, where again the meaning is unmistakable. Speaking of the misdeeds of the barons in the reign of Stephen, the chronicler says : 'They laid "gilds" on the towns (*tunes*), and called it "tenserie;" and, when the miserable men had no more to give, then plundered they and burned all the towns; and well mightest thou fare a whole day's journey nor ever shouldst thou find a man settled in a town [*in tune sittende*], nor land tilled. . . . If two or three men came riding to a town [*an tun*], all the *tunscipe* fled before them, and weened that they were robbers.'[1] Here, again, the *tunscipe* are the people of the *tun*.

The law of Edgar (iv. 8) ordains that, 'if a man, being out on any journey, unintentionally make a bargain without having declared it when he rode out,' he shall 'declare it when he comes home;' 'and, if it be live stock, let him, with

[1] Earle, *Two of the Saxon Chronicles parallel*, p. 262.

witness of *his township* [*mid his tunscipes gewitnysse*], bring it to the common pasture.'[1] Now, it may, of course, be maintained that this implies the formal action of the officials of a district organised for administrative purposes. But it is surely much more likely to have the more commonplace meaning that the man who unexpectedly brings a strange beast into the village, which he says he has bought, is not to hurry it off to the pastures without telling any one about it, but is to publish his story abroad, and put the beast on the pasture under the eyes and with the knowledge of the *other inhabitants of the village*. For let us look at the context. The previous clause says 'he who rides in quest of any cattle [i.e. to buy], let him *declare* (beforehand) *to his neighbours* about what he rides.' And in this clause itself the law goes on to order that, if the bringer of the strange cattle do not call in the 'witness' within five days, 'the town's men' are to declare it to the 'ealdor' of the hundred; 'and let them be exempt from "wite," both themselves and their herdsmen, and let him forfeit the cattle who brought it thither, *because he would not declare it to his neighbours* [*his neah-geburum*].'[2] And, when we add to the argument from the context, that fairly deducible from the proved meaning of the word in the two other places, it is difficult to see how there can any longer be much doubt. Schmid, with only this passage before him, had apparently no hesitation in defining *tunscipe* as 'die *Bewohnerschaft* eines tun.'[3] The formation of the word may be roughly paralleled with that of *geferscipe*, a body of companions on a journey, or *gebeorscipe* (= beer-ship), a drinking party (convivium), in the story of Cædmon.[4]

The later history of the word 'township' would probably

[1] Thorpe's translation in *Ancient Laws and Institutes* (fol. ed.), 116.

[2] It may be noticed that this law of Edgar seems to assume that every *tun* is subordinate in some sort of way to a *landrica*; for it orders that half the forfeited cattle are to go to the landrica, half to the hundred.

[3] *Gesetze der Angelsachsen*, Glossar, *s.v.*

[4] *Old English Version of Bede's Ecclesiastical History*, iv. 24.

repay investigation. It is certainly not a common word in literature until comparatively recent times; and, where it does appear, its old meaning seems often to cling to it. At least, such a meaning is just as fairly assignable to it as the more formal and institutional one. This is the case in the one passage in which it occurs in Shakspere: [1]

Suffolk . . . . What's here? [*Reads*] 'Against the Duke of Suffolk, for enclosing the commons of Melford.' How now, sir knave?

Second Petitioner. Alas, sir, I am but a poor petitioner of our whole township.[2]

So also with the certificate of the sale of church plate (1547) in the parish of Beccles. 'Beccles . . . sold anno primo Edward sexti Regis, etc., by *the townshype and Churchewardens* so much plate as amounteth to the sum of xi *l.*' [3]

Yet as early as 1414 the word had begun to be used for a certain local area.[4] In a petition of that year—the first English petition on the Rolls of Parliament—we find 'the manor and township of Chestreton.' [5] And in the sixteenth century the word was quite commonly used by the translators of the statutes as the equivalent for 'ville.'

Nevertheless, there is a good deal to make one believe

[1] *Second Part of King Henry VI.* Act I. Scene 3.

[2] Here Schmidt, *Shakespeare Lexicon*—looking at the passage, we may suppose, without constitutional prepossessions—defines '*Township*: The body of the inhabitants of a town.'

[3] *East Anglian*, May 1885, quoted by W. F. Allen, *Monographs and Essays*, p. 269.

[4] It is very probable it was used a good deal earlier. *Tunscipemot* occurs in certain charters of Richard I. and John; but, as Professor Maitland observes (*Law Quarterly Review*, ix. 226), its occurrence here 'in close connection with the "hustings" and the "portmanemot" suggests that it was chiefly within the cities and boroughs that a township-moot was to be found.' It is significant that in Stratmann's *Dictionary of the Old English Language* (3rd ed. 1878), 'compiled from writings of the twelfth, thirteenth, fourteenth, and fifteenth centuries,' though there are some fifteen references for *tun* in various senses, there is but one for *tunscipe*; and that is the passage in the *Anglo-Saxon Chronicle* already discussed.

[5] *Rot. Parl.* iv. 57. I owe this reference to Mr. Oliphant's *New English*. Mr. Oliphant speaks of 'township' as a 'new word.'

that *town* continued to be the common popular term for what we may describe in general language as a rural centre of population even into the eighteenth century. Chaucer's model priest from the country was 'a poure persone of a toun.' [1] The Enclosure Act of 1488–89 speaks of the 'pulling-down of townes,' and of 'townes' where 'two hundred persons were occupied, and now be there occupied ii or iii herdemen.' [2] The sixteenth-century translation of the Ordinance of Labourers of 1349, as well as that of the Statute of Labourers of 1360-61, uses *toun* for *villa* and *ville*.[3] Lever, preaching in 1550, describes how, before the Reformation, 'there were in some townes 6, some 8, and some 12 kyne, given unto a slock for the relief of the poor.' [4] In a Certificate of Church Goods in Suffolk, in the Customary of Tettenhall Regis (1604), and in Colonel Hutchinson's Memoirs, 'town' is used for 'manor;' [5] while the same Certificates of church goods of 1547 give abundant examples of its use for 'parish.' [6] Coke translates Littleton's statement, 'chescun burgh est un ville, mes nemy è converso' 'every borough is a town, but not è converso'; and goes on to comment: 'It cannot be a town in law unless it hath, or in times past hath had, a church and celebration of divine service, sacraments and burials. . . . There be in England and Wales eight thousand eight hundred and three towns or thereabouts.' [7] The Act of 13 & 14 Charles II. c. 6, groups together 'parish, *town*, village, or hamlet;' [8] and Mr. Toulmin Smith gives long extracts from the records of the parish of Ardley in Hertford for the period of 1707–1831,

[1] *Canterbury Tales*, Prologue, l. 480. He had a 'wide parish,' and his brother was a 'plowman.'

[2] 4 Hen. VII. c. 19; *Statutes of the Realm*, ii. 542.

[3] *Statutes of the Realm*, i. 307, 367.

[4] Lever's *Sermon before the King*, Arber's reprint, p. 82.

[5] Quoted in Allen's *Monographs*, pp. 273, 275.

[6] *Ibid.* pp. 268, 269. For other examples of the equivalence of *town* and *parish*, circa A.D. 1600, see Professor Channing's convincing essay on *Town and County Government in the English Colonies* (1884), pp. 9–11.

[7] *Co. Lit.* [115 b], sect. 171.

[8] Cited by Toulmin Smith, *The Parish*, 2nd ed. p. 108.

found in a volume marked 'The Towne Book.'[1] The word is used for village throughout Ellwood's Autobiography, published in 1714.[2] Even to-day there are parts of England where 'town' (in Yorkshire pronounced *toon*) is still the rustic term for village.[3]

That in particular cases 'town' (*villa*), 'manor,' and 'parish' often did not coincide is very apparent. There were many instances of parishes including more than one town; but the above instances make it clear that in common usage, over a large part of the country, the three terms were equivalents. Thus Coke declares, 'By the name of a town, *villa*, a manor may pass,' and, in another place, 'If a matter be alleged *in parochiâ*, it shall be intended in law that it containeth no more towns than one, unless the party doth shew the contrary.'[4]

It may be added that the far more general use of the word *town* than of *township* in early New England is most naturally explained by supposing that it was the word ordinarily employed in England at the time of the migration—at any rate, in East Anglia. And it is worth while to recall the common use of *town* for the village on a landlord's estate in Ireland,[5] and its appearance in the same sense in Southern Scotland.[6]

[1] *The Parish*, 2nd ed. p. 525. [2] See, e.g., pp. 1, 36 (ed. Crump, 1900).

[3] See the *Provincial Dictionaries* of Halliwell and Wright, and, better still, Morris's *Yorkshire Folk Talk* and Baker's *Northamptonshire Glossary*.

[4] *Co. Lit.* [5 a], sect. 1; [125 b], sect. 193. For this latter reference I am indebted to the courtesy of Sir Frederick Pollock.

[5] A good instance is given in Miss Edgeworth's *Absentee*, where also the circumstance that the authoress thinks it necessary to add an explanation shows that she supposed the word would be strange to her polite readers: 'He arrived at a village, or as it was called a town, which bore the name of Colambre. . . . Lord Colambre . . . asked him to whom the town belonged, and who were the proprietors of the neighbouring estates. "The town belongs to an absentee lord—one Lord Clonbrony"' (chap. ix.).

[6] E.g. the 'auld town' of St. Ronan's (*St. Ronan's Well*, chap. ii.). See also the examples in Jamieson's *Dictionary of Scottish Language*, especially of 'towngate' for village street in the South.

If, then, it was *town* that the country folk themselves were wont to speak of, it is a little difficult to understand how *township* has obtained its literary prominence. It is probably the result, in the main, of the employment of *town*, from a period at least as early as the sixteenth century,[1] for an urban centre—as an equivalent, in short, for *urbs*. This itself, of course, is not an ultimate fact, and needs explanation. But it is easy to see that, when this other use became common in cities and boroughs, writers who addressed themselves to an urban public would feel the need of a word not liable to misunderstanding, and would tend to adopt *township*. The country folk themselves would not feel the ambiguity, and would continue to speak of their *towns*. It may not be far-fetched to suggest that there is a further and even more literary explanation of the prominence given to the word *township* by recent writers. The late Professor Allen, of the University of Wisconsin, has commented[2] on the curious fact that, although 'at present the word "township" is not in use in New England, except occasionally . . . and never as a body politic,[3] it is the word, *fastened upon by De Tocqueville*, that is regularly used by foreign writers to describe the New England town system.' De Tocqueville was doubtless unconsciously influenced by the contemporary English literary use of *township*; but it does seem very probable that his employment of the word gave it a dignity, a sort of politico-philosophical propriety, in the eyes of his contemporaries which it had never enjoyed before, and

[1] It is commonly so, for instance, in Shakspere.

[2] *Monographs*, p. 269.

[3] It is now currently said that 'township' is only accurately used for the area or stretch of land, and that 'town' is the only proper term for the body as a juristic person, or as a political or administrative organism. How far this agrees with seventeenth-century usage I am unable to say. Freeman's *Town Officer* (for Massachusetts), which passed through several editions at the end of the eighteenth and beginning of the nineteenth century, seems to use 'town' alone, and speaks not only of 'the power and duty of towns,' but of 'inhabitants of a town.'

which not a little influenced even the most scholarly historians.[1]

To return to Anglo-Saxon times. It might very naturally be said that the effect of the foregoing argument is no more than to replace 'township' by 'town,' and that such a change is immaterial—that it is a difference between tweedledum and tweedledee. I cannot help thinking, however, that the adoption of a more correct terminology will be of scientific advantage; and for this reason. So long as we speak of the Anglo-Saxon 'township,' we can hardly help attaching to the word some of its modern associations. We are apt to think of it as an area inhabited by freemen who are accustomed to manage some of the administrative business of their district by means of a local assembly and local officials. We start, that is, with a sort of unconscious presumption that the 'township' was what we call 'free.'[2] Townships under a lord we speak of as 'dependent townships;' and we can hardly help thinking of them as exceptional or as later than the free ones. Now, it is this question as to the position of the body of the population in the earliest Anglo-Saxon times that is just now at issue; and no student would say that at present the question is settled. And, while that is so, it is surely better to use a terminology which is as far as possible from suggesting an answer which we are not yet in a position to prove—to say simply that we know of the existence among the Saxons of *villae* and *vici* and *tuns*, and there for the present leave the matter.[3]

[1] *La Démocratie en Amérique*, chap. v. Mr. Bryce (*American Commonwealth*, chap. xlviii.) returns to the more accurate term 'town.' He gives a quotation from Jefferson, 'Those wards called townships in New England,' which may help to explain whence De Tocqueville got the word.

[2] Cf. Stubbs, *Constitutional History*, i. 89.

[3] It is not, however, unfair to add that the use of *tun* itself may be adduced as strengthening somewhat the argument for supposing that the later 'towns' grew up around seigneurial or dominical households. *Town* is still used in Scotland for a single farmstead. In Devonshire and some other parts of England it is used for the court or farm yard. In Ireland *tun* denotes 'the manured grass-plot, enclosed within a low

So far we have been dealing with a narrowly limited matter—the use of the word 'township'—and engaged in the interpretation of certain definite citations; and this was the only object of this paper. But it can do no great harm to tack on to this some speculations as to the history of the 'tun' itself, if it is distinctly stated that they are but tentative speculations, thrown out by way of experiment.

From the earliest time for which we have any information there were *villae* and *tuns* scattered over England. The appearance of the two terms is practically contemporaneous. *Tun* occurs first, in an authentic document, in a charter of A.D. 674, where Wulfhere of Mercia sells to a relative 'aliquam partem agri in hereditatem perpetuam, id est v. manentes, ubi ruricoli nominantur Dilingtun, cum campis et silvis et omnibus utensilibus rebus ad isto agro pertinente;'[1] while *villa* confronts us again and again in Bede's 'Historia Ecclesiastica.' Now, Bede was born A.D. 672, and ceased writing his Ecclesiastical History, which he had probably begun some years before, in 731. The 'king's tun,' the 'earl's tun,' and 'a man's tun' do indeed occur in the laws of Ethelbert of Kent,[2] assignable to *circa* A.D. 600. It must, however, be remembered that the editors of the Anglo-Saxon laws are agreed that 'it would be unreasonable to suppose that these laws have descended to us in their primitive state,'[3] though they probably contain the substance

green bank or raised dyke, which surrounds the farmhouse.' This is in perfect harmony with the accepted derivation of the word, which interprets it as an 'enclosure,' and connects it with the German *Zaun*, a hedge. But there seems no reason for supposing that whole villages were enclosed—either the whole land of the village (as Nasse understands Kemble to mean; though this, as he justly says, is inconsistent with the later history of enclosures) or merely the group of village homesteads (as Nasse conjectures, *Agricultural Community*, p. 15). If so, the application of the term to a village must be a *secondary* use, and may very well have come to it from the fact (if true) that it grew up around the *tun* of a lord. *Town*, in brief, suggests the same sort of *prima facie* argument as *villa*.

[1] Earle's *Land Charters*, p. 5.

[2] §§ 5, 13, 17.

[3] Thorpe's *Ancient Laws*, Preface, p. iv. Cf. Schmid, *Gesetze*, Einleitung, xxx: 'Es ist schwer zu glauben dass derselbe uns die Sprache Æthelbirhts treu wiedergegeben habe.'

of some of Ethelbert's enactments; so that it would be unsafe to cite them for our purpose.

It can hardly be disputed, also, that the words were equivalents, though we have no examples of translation before the tenth century.[1] We should hesitate, however, before speaking either of *tun* being 'latinised' as *villa* or *villa* being 'anglicised' as *tun*. To say that *tun* was latinised 'afterwards 'as *villa* is to suggest that the English institution was really known only as *tun*, and that scholars consciously sought for a designation in a dead language, and chose *villa*—perhaps unwisely. It would be truer, probably, to say that people who used English commonly called the thing *tun*, and people who used Latin called it *villa*.[2] To determine what proportion of the inhabitants spoke of it under one name and what under the other, we should have to answer the question, still hotly disputed, as to whether the Provincials survived under new masters. It must be allowed that *villa* does not survive in place-names to anything like the same extent as *tun* or *ham* in England, or *villa* itself in France. Such a phrase as 'ubi ruricoli nominantur Dilingtun' in the charter of A.D. 674, or 'in vico regio qui dicitur Rendlaesham,'[3] is good evidence that then and there a name of English origin was used. Yet in his Lives of the Abbots of Wearmouth Bede tells us of 'terra viginti familiarum

[1] Besides the *Old English Version of Bede*, see the charter of A.D. 940, granting land at 'Oswalding villam,' with its contemporary endorsement, 'Oswalding tun,' in Kemble, *Codex Diplomaticus*, cccIxxxv., and Earle, p. 175. Cf. the charter of 780, *C.D.* cxl., where of four *villulae* the names of two end in *tun*.

[2] We commonly think of these latter as only a few clergy. There is, however, a passage in Bede which would seem to imply that Latin was known to some extent by a good number of people. 'Haec [insula] *in praesenti* . . . quinque gentium linguis unam . . . summae veritatis . . . scientiam scrutatur et confitetur, Anglorum videlicet, Brittonum, Scottorum, Pictorum et *Latinorum*, quae [*sc.* Latinorum lingua?] meditatione scripturarum ceteris omnibus est facta communis' (lib. i. cap. 1).

[3] Bede's *Historia Ecclesiastica*, iii. 22.

in loco qui, *incolarum lingua, Ad Villam Sambuce* vocatur.'[1] And Professor Earle has shown some reason for believing that *villa* has survived to a larger extent than we had imagined, and that 'it is obscurely embedded in some of our place-names.'[2]

But what were these *villae* and *tuns*? It is very possible that some, both of the *villae* and of the *tuns*, were still simply 'country-houses' with enclosed farmsteads, but without any group of residents around them except the handful of persons who formed the family and household of the owner. It is quite conceivable that in some cases they were groups of free proprietors living together in villages. But it is far more probable that in most, if not all, cases they were private estates, having upon them villages of dependants of various degrees, from slaves up to free tenants. If we assume, as Gibbon did,[3] that the English conquerors would find it 'their interest to preserve the peasants as well as the cattle of the unresisting country,' no difficulty will remain: we shall conclude that the estates known as *villae* of the Roman time survived with much of their old organisation and population, to become the nuclei round which would grow up the later manors. And we can draw this conclusion without necessarily imagining that every English warrior who did not become the lord of a *villa* became a serf. It is very possible that there was a considerable number of free English proprietors at first, who were gradually drawn into the vortex of manorial formation around the *villa* nuclei. But, if Gibbon's assumption seems too hazardous, there are other and independent reasons for the same view as to the Anglo-Saxon *villa* or *tun*. In the first place there can be little doubt that, at the time when Bede wrote, *villa* elsewhere in Western Europe commonly denoted an estate with dependants

[1] *Vita Abbatum Wiremuthensium*, in *Complete Works of Bede*, ed. Giles (1843), iv. 386.

[2] 'The Villa and the Manor,' in the *Economic Journal*, ii. 744.

[3] *Decline and Fall*, chap. xxxviii.

upon it.[1] The burden of proof is upon those who would assert that Bede used it in any other sense. In the second place, the earliest charters of land use as the units of measurement *cassati, manentes*, and *tributarii*, either actually transferring so many *cassati* &c., or the land of so many *cassati*.[2] Now, these were quite common terms on the Continent for prædial serfs and their holdings ; [3] and it would be very odd if the terms had been used here without similar classes having existed.[4] Moreover, some of the earliest grants of such more or less servile holdings describe them as being '*in* [more rarely 'ubi'] the place called (such and such a) *tun*[5] or *ham*,'[6] and go on to speak of the appurtenant enjoyment of fields, pastures, meadows, &c. That is, they imply that the *tun* or *ham* was some sort of larger unit, made up of a number of such servile holdings with their appurtenances, much in the same way as the later manor was made up of plough-lands or yard-lands. And, in the third place, it is a curious circumstance that, whenever Bede speaks of a village (*vicus*, in the old English version *tun*)—such as, if we had no farther information, we might suppose to be a village of free proprietors—he either adds some such word as *regis* or *regius*, or speaks of it later as *villa* ; and in the same way

[1] As far as I can make out, this does not seem to be denied even by M. Flach, who, in his *Origines de l'Ancienne France* (1893), has taken up the cudgels against M. Fustel de Coulanges, and has tried to make out that the Frankish *villae* were in some cases independent villages.

[2] *Cassati* and *manentes* occur on every page of Earle's *Land Charters*. For *tributarii* see charters of A.D. 693, *C.D.* xxxvi., A.D. 725, *C.D.* M., and A.D. 780, *C.D.* cxl.

[3] On *tributarii* see Waitz's *Deutsche Verfassungsgeschichte*, ii. 223, 224.

[4] It is true that these terms do not appear outside the land charters ; but then our evidence is very scanty. The forms of the charters may have been awkwardly copied from Italian precedents. Still, the conditions cannot have been altogether dissimilar, or it would hardly have been possible to estimate the size of an estate by the number of such tenures. Cf. Hallam's *Middle Ages* (ed. 1870), ii. 366.

[5] E.g. charters of 674 (Earle, p. 4) and 714 (*C.D.* xlvii.).

[6] E.g. charters of 692 and 704, *C.D.* xxxv., lii.

that, when *villa* alone is used, it is either qualified by *comitis* or *regis*, or is the subject of a grant.[1]

The earlier *tun* or *ham* or *villa* was thus, in all probability, usually an estate containing upon it a group of dependants living together in what we may call a *village*. And the view of social evolution to which such a conclusion brings us is that 'the village community' of later times, so far as it existed, was in large measure the result of the common bond or tie to the proprietor, the lord, or seigneur.[2] The sense of community of interests, the habit of joint action created by seigneurial or, to use Professor Earle's term, dominical pressure, would survive, and even for a time grow stronger as the grasp of the lord was loosened. And so out of the dependent group would slowly grow the 'town' and 'township'—the latter term originally applying in a general way to the 'villagers' or 'townsmen,' then coming to be associated with the idea of corporate unity, like *villata*, and then naturally being extended to the area cultivated by the villagers. Out of it would arise much of the 'parish' machinery of later times; and, in places favoured by circumstances, municipal self-government would also find there its beginning.

But we must not antedate the various stages in this process. When we come to look up the authorities that are given for the 'functions' of the Anglo-Saxon 'township,' it is startling to find how they slip from between our fingers. No scholar is now inclined to build much upon the single appearance of *mearc-mot* in a document professing to be of A.D. 971, and regarded by Kemble himself as of doubtful authenticity.[3] But it is hardly realised that with the disap-

[1] See the list given above. The only exception is the *vicus* among the Old Saxons; about which we are only told that it had a *villicus* who was, in some unexplained way, subordinate to a *satrapa*.

[2] The co-operation rendered necessary by the open-field system of husbandry had certainly much also to do with it; but that opens another field of inquiry, which we cannot enter here.

[3] *C.D.* D lxviii. See also Earle's *Land Charters*, xlv., and Pollock's *Oxford Lectures*.

pearance of *mearc-mot* disappears all the *Saxon* evidence for a township assembly of any sort. Important administrative functions have been assigned to the Anglo-Saxon township: 'it carried into effect the requisitions of the higher courts in the way of taxes and other exactions, the pursuit of criminals, and the search for stolen goods;'[1] and four passages are cited from the laws. One only of these is early. It is a clause of the Laws of Hlothere and Eadric.[2] This happens to be one of the most obscure, and probably corrupt, passages in the Saxon laws—a passage which Schmid gives up the attempt to translate; and all that can be made out of it is that, if some one is accused of stealing a man, he is to swear to his innocence with the help of certain compurgators, 'each in the *tun* to which he belongs.' Possibly the ceremony took place before the altar of the village church—a most natural thing to do, and implying very little function on the part of the townsfolk except that of 'occasional crowd.' The next passage is that ordinance of Edgar's already discussed, which requires the witness of the neighbours, when cattle have been acquired. The third is another clause of the same set of laws:[3] 'I will that townsmen (*tunes-men*) and their herdsmen have the same enquiry concerning my live cattle and that of my thegns as they have concerning their own. But if my reeve, or any other man, more or less powerful, shun this, and command things unseemly, either to townsmen or their herdsmen, let the Danes choose, according to their laws, what punishment they will adopt respecting him.'[4] This is certainly far from lucid. And the fourth passage comes from the Laws of Ethelred,[5] assignable to so late a date as A.D. 997. This simply says that 'he who robs a man in broad daylight, and he [i.e. the robbed] declare it in three *tuns*, shall not be entitled to any frith,' (i.e. apparently, the robbed person can take summary vengeance, or get it taken, on the criminal,) if the prosecutor first makes the business known in three neighbouring villages. In all these

[1] Stubbs, *Constitutional History*, i. 97. [2] Sect. 5. [3] iv. 13.
[4] Thorpe's translation, *Ancient Laws*, 117. [5] iii. 15.

laws there is scarcely any trace of formal administrative or police action on the part of the *tun* or its supposed officers. What most nearly approaches to it is the clause in Edgar's Ordinance of the Hundred, in the second half of the tenth century, requiring the assistance of the 'tithing men' in the pursuit and punishment of thieves.[1] But the relation of the 'tithing' to the 'town' is a tangled mystery, upon which it were rash to enter here. It is with the 'town' and 'township' that we are now dealing; and one is very much inclined to agree in the sweeping statement that the Anglo-Saxon township (or tun) 'had not a single constitutional function of any kind, sort, or description.'[2]

One supposed function—and that, if real, an important one—still, however, remains to be considered. The township, it is said, 'arranged the representation of its interests in the courts of the hundred and the shire, where the *gerefa* and four best men appeared for the township.'[3] And, again, 'in the *free* townships the reeve and the four best men were the legal representatives of the community in the court of the hundred and the shire.'[4] The one authority cited is 'the

[1] Edgar, i. 2.

[2] *North American Review*, July 1874 (vol. cxix. p. 239).

[3] Stubbs, *Constitutional History*, i. 97.

[4] *Ibid.* i. 102. Such a statement lends itself very easily to political philosophising. Thus Mr. Gardiner, speaking of 'the institutions of the [English] settlers' in Britain, compares them with those of the Roman Empire thus: 'The organisation of which he [every freeman] formed part did not, as in the empire, reach from the state to the individual, but from the individual to the state. Every township . . . made its appearance every month in the hundred mote to decide quarrels and witness contracts' (Gardiner and Mullinger, *Introduction to the Study of English History*, p. 18). So, also, Mr. Fiske contrasts the 'Roman Idea and English Idea,' or Non-representation and Representation, thus: 'In the [Anglo-Saxon] county meeting we may observe a singular feature, something never seen before in the world, something destined to work out vaster political results than Cæsar ever dreamt of. This county meeting is not a primary assembly: all the freemen from all the townships cannot leave their homes and their daily business to attend it. Nor is it merely an assembly of notables, attended by the most important men of the neighbourhood. It is a representative assembly,

laws of Henry I.' Now, these 'laws' are an unauthorised compilation, assigned by Dr. Liebermann to the period between 1108 and 1118. It is possible—nay, probable—that 'they contain very many vestiges of ancient English jurisprudence.' But it would be eminently unsafe to select any clause as containing such a 'vestige,' unless the archaic nature of the ordinance were clearly proved by other evidence. And, after all, what precisely do these laws say?[1] In the paragraph dealing with the county courts it declares:

§ 7. Si quis baronum regis vel aliorum comitatui secundum legem interfuerit, totam terram, quam illic in dominio suo habet, adquietare poterit. Eodem modo est si dapifer ejus legitime fuerit. *Si uterque necessario desit*, prepositus et sacerdos et quatuor de melioribus villae adsint pro omnibus qui nominatim non erunt ad placitum submoniti.

§ 8. Item in hundredo decrevimus observandum de locis et vicibus et judicum observantiis, de causis singulorum justis examinationibus audiendis, *de domini et dapiferi* VEL *sacerdotis et praepositi et meliorum hominum presentia.*

Is it necessary to point out that what this anonymous writer of the beginning of the twelfth century says is that the priest and reeve and the rest are to attend only if the lord or his steward is obliged to be absent, and that he assumes that there is a lord as the normal condition of things?[2]

attended by select men from each township. We may see in it the germ of the British parliament and of the American congress, as indeed of all modern legislative bodies' (*The Beginnings of New England*, p. 28).

[1] *Leges Henrici Primi*, vii. 7, 8; Schmid's *Gesetze*, p. 440.

[2] Mr. Bigelow (*History of Procedure in England*, p. 134) argues as follows: 'The statement that the reeve, priest, and four men represented the lower classes' (which is hardly the exact case), '*when* the baron and his steward were necessarily detained, probably does not mean that the attendance of such representative persons was dependent upon the absence of the baron and steward, but that, if the latter were excusably absent, then the lower classes, such as were represented by the baron and his steward, when present, were to be represented by the delegates attending with the parish priest. And, if this be true, it follows that this delegation (being regularly present) properly and always represented others than those represented by the barons.' I must

The only reason that remains for attributing to the Anglo-Saxon 'township'—i.e. town—certain functions of the kind we have been looking for is the argument from supposed 'survivals.'[1] The courts of the manors, and the parish meetings of a later date, had certain features, which, if we start with an unconscious presupposition as to the original constitution of Anglo-Saxon society, may easily strike us as 'archaic,' as 'vestiges' and 'survivals.' But this is one of the most dangerous of arguments. Every one of those customs and features may just as well—in default of evidence to the contrary—be regarded as the outcome of an evolution *away from* the original condition. What is vitally necessary and alone sufficient is early evidence as to the early condition itself.

confess that this seems a mere juggle with words, occasioned by the assumption that this 'regular presence' of the 'delegation' is beyond question, forgetting that these particular passages are our only evidence. The utmost that can be said is that here we may see the very beginnings of the idea of representation. But it should not be forgotten that the same compilation says of the county courts, 'Intersint episcopi . . . praepositi, barones, vavassores, tungrevii et *caeteri terrarum domini*' (vii. 2); and 'Regis judices sunt barones comitatus, *qui liberas in eis terras habent . . . Villani vero* vel cotseti . . . *non sunt inter legum judices numerandi*' (xxix. 1).

[1] I have since observed that Dr. Stubbs makes somewhat the same concession in regard to representation in the county court (*Constitutional History*, i. 128). This point, he says, 'left questionable in the laws, is *proved* by the later practice;' and he refers to the county courts of Henry III. But it is difficult to see how the practice of 1231 can *prove* anything as to 1066, unless we suppose social and political conditions to have remained unchanged. But this was far from being the case. In a footnote Dr. Stubbs asks us to compare certain four passages from *Domesday*. Three of these have no suggestion of representation. The only one that has is the case of Archenfield (i. 179), where 'si vicecomes evocat eos ad sciremot, meliores ex eis, vi aut vii, vadunt cum eo.' But Archenfield (later known as Irchenfield) was not a manor in the sense in which the word was used in England proper. It was a considerable tract on the Welsh border, containing several villages, where the king had 'c homines . . . qui habent LXXIII. car' cum suis hominibus.' That six or seven of these vassals (homines) should attend the shiremoot indicates little as to the practice in the cases of manors of the English type. Cf. Camden's *Britannia* (ed. Gibson), i. 491.

PROFESSOR ALLEN'S 'MONOGRAPHS AND ESSAYS'[1]

When the history of the university renaissance in America during the last quarter of a century comes to be written, the name of Professor Allen, of the University of Wisconsin, will find in it an honourable place. To that elevation of the character of academic instruction and academic study which has at last created true universities where before were but finishing schools and professional seminaries, William Francis Allen contributed in no small measure. He did not, perhaps, greatly worry himself or others about 'methods;' he did not try to turn the average American graduate into a poor copy of the German *privat-docent*; nor did he yield to the temptation to invite the general public to look at what he was doing. He recognised the limitations of his material, and set himself quietly to do the best he could under the conditions. He was indeed somewhat too unobtrusive: one of our modern young specialists would doubtless have persuaded the governing body to allow him to exchange the chair of classics for that of history in something less than eighteen years. What, nevertheless, Professor Allen did at the University of Wisconsin was to substitute the intelligent study of historical questions and the scholarly use of historical material for the schoolboy recital of textbook lessons; and what he—more perhaps than any one else—

[1] [*Monographs and Essays*, by William Francis Allen. Memorial Volume (Boston, 1890). Reviewed in the *Political Science Quarterly*, December 1892.]

did for historical study generally in America was to de-provincialise it and bring it into touch with the best modern thought of Europe. This he did by the long series of reviews he contributed to the New York 'Nation.' Certainly no English journal has made so sustained an effort as this American publication to keep its readers abreast of the best historical work of Germany and France; and the 'Nation' was in this connection but another name for Professor Allen. Professor Allen left behind no literary monument at all worthy of his great powers. The explanation is to be found, not so much in his arduous university duties, as the writer of the introductory memoir suggests, as in his never-ceasing activity as a reviewer—a reviewer not only of important treatises, but of innumerable school handbooks; not only of works in a particular field, but in many and widely different subjects. The very excellence of these ephemeral criticisms is their condemnation. No man has sufficient mental energy to carry on honest and thoughtful labour of this kind side by side with sustained original investigation. Without further particulars of Mr. Allen's life, we cannot venture to criticise such an employment of his knowledge and ability; but whatever the explanation may have been, it was a great pity.

There was, however, one subject to which Mr. Allen turned again and again during the last fifteen or sixteen years of his life, and in which he displayed a vigour and independence in the use of the scanty materials at his disposal which seemed to promise a considerable achievement, and did indeed produce new and valuable conclusions. This was the subject of early English land tenure; and it is the papers on this subject collected in the Memorial Volume lately issued which give it its scientific interest. The Wisconsin Academy is doubtless doing good service to its state; but until the communication of the results of historical research is better organised than at present, papers published in its 'Transactions' are practically non-existent for the great majority of scholars. Their union and publication in an accessible form is therefore very welcome; and the

book is one which ought to find its way to all who are really interested in the subject.

A number of papers scattered over a period of sixteen years, towards the end of which so epoch-making a work as that of Mr. Seebohm appeared, is sure to contain much that recent research has antiquated or disproved. For instance, the explanation in one place of a virgate (following, no doubt, a chance remark of Thorold Rogers) as eight acres, and the use of the term 'farm' in many places obviously in its modern sense, show that, like every one else, Professor Allen did not fully grasp the open-field system until Mr. Seebohm explained it to us. But there is not a page which is not still worth reading; and on some important parts of the general question, Professor Allen anticipated his European fellow-workers in laying down propositions that are now coming to be generally accepted. Thus as long ago as 1873 he argued that the tenants in socage and the freeholders of the thirteenth century were simply 'specially privileged *villani*'—that they were a class that had grown up since Domesday, and not simply, as Archdeacon Hale and others used to think, *omitted* in Domesday. Then again, in 1877, Professor Allen anticipated one of the most recent conclusions of Professor Maitland and the new school of English legal historians, in urging that the court baron bore the marks of a feudal court and not of a prehistoric popular assembly.

But Professor Allen's contributions to agrarian history have a significance beyond that of the particular conclusions at which he arrived. He was among the earliest of those who are now turning to the details of early social organisation, not in the spirit of the antiquary, but in the spirit—to use an objectionable but sometimes useful word—of the sociologist. And he was absolutely the first among American scholars to realise that even in America there has been no breach of continuity; that the New England 'town' was but the English 'town' of the seventeenth century, planted amid new conditions; and that neither it nor its offspring can be fully understood until we penetrate the mystery of the origin of mediæval serfdom.

MR. ROUND'S 'FEUDAL ENGLAND'[1]

This book—in part reprinted from the 'English Historical Review,' but in the main new—is one of the most important contributions to the knowledge of mediæval English conditions that have appeared of late years. For a decade or more after the appearance of Professor (now Bishop) Stubbs's first volume of 'Constitutional History,' the movement of thought in that field took the direction chiefly of the appropriation and popularisation of his conclusions: but during the last ten years or so there has been a fresh impulse towards further investigation; and this further investigation has had the result, partly of securing greater precision, partly of undermining some not unimportant positions even of the great Bishop himself. In this work four scholars have preeminently distinguished themselves, and stand head and shoulders above all others—Mr. Seebohm, Professor Vinogradoff, Professor Maitland, and Mr. Round.

Mr. Round remarks, in more than one place, that while the task of the last generation of scholars was to interpret the 'chroniclers,' the task of the present is to supplement and correct that evidence by recourse to the 'records;' and the remark is just. Not that the 'records' were never consulted before: it was Palgrave who did most to make them accessible; and even Freeman made occasional use of the Domesday Book. But what is new is the effort, not to pick out mere illustrations or proofs for opinions otherwise

[1] [*Feudal England: Historical Studies of the Eleventh and Twelfth Centuries*, by J. H. Round (1895). Reviewed in the New York *Nation*, April 23, 1896.]

formed, but to master the records as wholes, to determine their exact relations *inter se*, to analyse their contents, and to let the facts themselves spontaneously fall into significant order. And this result is what, in the volume before us, Mr. Round has gone far towards bringing about with the record of the great survey of William the Conqueror and the documents that cluster around it.

Setting out from the 'Inquisitio Comitatus Cantabrigiensis,' and comparing it on the one side with the 'Inquisitio Eliensis' and on the other with the Domesday Book itself, Mr. Round first reaches the important discovery that among the 'socmen' there were two kinds of tenure, 'thegnland' and 'sokeland,' distinguished by important differences. He then produces some new and quite conclusive evidence in support of Mr. Seebohm's contentions that the *caruca* of 'Domesday' always meant a plough team of *eight* oxen, that the *hide* contained four *virgates*, and that each *virgate* contained thirty acres—though he guards himself by inserting *geld* before each of the terms *hide*, *virgate*, and *acre*. His conclusions, that is to say, are limited to the assessment of land for the purpose of taxation, and the relation of this assessment to agricultural management is left undetermined. Next comes the most exciting discovery of all, viz. that in the 'hidated' portions of England the 'hidation' was evidently arranged in multiples of a five-hide unit. In a large number of cases the 'Hundred' itself was reckoned at a hundred hides—a fact that clearly has a direct bearing on the origin of that territorial division. Nor is this all; there is much to make it seem probable that 'it was the Hundred itself which was assessed for geld, and which was held responsible for its payment.' Moreover, it is clear that 'the part which is played in the hidated district of England by the five-hide unit is played in the Danish districts by a unit of six carucates.' In the Danish districts there were probably some other peculiarities; chief of them a small 'Hundred,' usually composed of 12 carucates, and forming a subdivision of the Wapentake. But the broad distinction between the five-hide-unit area and the six-carucate-unit

area is beyond doubt, and indeed lies on the surface of the evidence, when once it has been pointed out; and it will have to be taken into account by all future writers.

The other main theme of the book is the origin of knight's fees. Here Mr. Round's view is not quite so novel; for he has already presented it in the pages of the English Historical Review.' Taking for his point of departure the returns made to the Exchequer in 1166, to which hitherto but scant attention has been paid, Mr. Round argues convincingly that the view generally accepted, on Dr. Stubbs's authority, is altogether mistaken; that instead of the Norman Conquest making no change save in the direction of greater definiteness in the obligations resting on the landholders, and these obligations continuing to be determined by the hidage or value of the holding, the tenants-in-chief received their fiefs from the Conqueror to hold of the Crown by a definite quota, fixed more or less arbitrarily, of military service. Strictly speaking, this is but 'a theory,' for no contemporary account of an enfeoffment on such terms has hitherto been found: but Mr. Round's argument backward from the known to the unknown makes it difficult to escape some such conclusion.

To these remarkable papers on Domesday and knight-service, Mr. Round adds a number of articles of less moment, though those on 'The Alleged Debate on Danegeld in 1163,' and 'The Oxford Debate on Foreign Service in 1197,' are not to be overlooked in any consideration of the constitutional position of the Church. He adds, also, and here we cannot but think him not altogether well advised, a selection from his 'Quarterly' and other papers on Mr. Freeman's account of the battle of Hastings. The quantity of argumentative writing around this subject has been so great, Mr. Round and Mr. Archer are both such good mediævalists and such ardent pleaders, the question as to the 'palisade' has been so confused by the introduction of the side issue of the 'shield-wall,' that a reviewer will hesitate long before he commits himself to a positive conclusion. After all, there are many other points wherein Mr. Freeman's incomplete

information and over-hasty judgment can be shown with far less question. Moreover, the current of historical thought is rapidly turning away from the sort of anticipatory democratic enthusiasm which coloured all Freeman's judgment of past institutions. Very soon Freeman's work will come to be estimated aright, both in its strength and its weakness; and meanwhile we grudge time and energy spent on the 'palisade,' which Mr. Round, we feel sure, could turn to better account.

It is curious to contrast Mr. Round's outspoken and not over-sympathetic criticism of Freeman with his carefully reverential attitude towards Dr. Stubbs. Doubtless Freeman was less adequately equipped for writing the history of the eleventh and twelfth centuries; doubtless his more positive temperament led him to more definite statements, while his friend avoided committing himself; but we cannot help asking ourselves what Mr. Round would have said if Dr. Stubbs had been, let us say, a German scholar, and not an English Conservative. For, in spite of Freeman's extravagances and Dr. Stubbs's moderation, the underlying conceptions of both were substantially the same—just as the Radical theory and the Whig theory of government are at bottom identical. Both, like Waitz, their German exemplar, seem to have carried back to the past the ideas of equality and self-government which have characterised our own age. The destructive process which Mr. Round has set going will not, it may be anticipated, stop with Mr. Freeman.

The time has certainly come for constitutional history to be written by Conservatives. And yet the presence in this admirable volume of certain pages which would have been rather more in place in the Quarterly Review, suggests the reflection that if Liberal spectacles are not altogether satisfactory for looking at the past, Conservative spectacles are not to be altogether trusted for a complete view of the present.

PROFESSOR MAITLAND'S 'DOMESDAY BOOK AND BEYOND'[1]

It is not often that a reviewer can safely use the term 'epoch-making'; but to Professor Maitland's book it may be applied with confidence, and in its true sense. When the future historian of historiography comes to write his chapter on the study of the social and political origins of the English people, he will probably point to the earlier sections of Bishop Stubbs's 'Constitutional History' as summing up in compact and cautious form the conclusions of one whole great school of industrious and enthusiastic scholars. He will then point to Mr. Seebohm's 'English Village Community,' and to various English statements of the views of M. Fustel de Coulanges, as somewhat unexpectedly reopening the discussion by calling in question what had come to be regarded as settled fundamentals. Over the literature of the next few years, including though it did at least one loudly trumpeted work, he will pass rapidly, and he will find the next distinct stage in the course of investigation in the present work of Professor Maitland. For, like all the books which really mark an epoch in the progress of science, this of Mr. Maitland is no mere defence of a threatened position. It advances to a new position, which, if closer to the older one than to its critics, is yet other than the older

[1] [*Domesday Book and Beyond: Three Essays in the Early History of England*, by Frederic William Maitland, LL.D., Downing Professor of the Laws of England in the University of Cambridge. (1897.) Reviewed in the *Nation*, September 16, 1897.]

one. We would not, perhaps, apply to historiography what some writers are fond of saying of philosophy. We would not speak, for example, of Professor Maitland as taking up into his doctrine what may be regarded as the valuable elements in the doctrine of Mr. Seebohm. The antithesis between the views of the one and the other is as sharp as can well be: there is, indeed, one respect in which the antithesis is even sharper than it was between Mr. Seebohm and Bishop Stubbs. But, without speculating on what might have been, it is clear that Mr. Maitland's book, as we have it and at the time we have it, is very much the result of the antagonistic movement of thought called forth by 'The English Village Community,' and also that it recognises and deals with elements in the problem, such as the yard-land, to which Mr. Seebohm was the first effectively to call our attention.

In form Professor Maitland's book is a model of the tentative. It is made up of three 'Essays:' one on 'Domesday Book;' one on 'England before the Conquest,' devoted mainly to the Anglo-Saxon land-books; and one to the 'Hide.' In each of these he takes a very wide compass; he approaches the matter at issue at a dozen points; he exhausts the phraseology of conjecture, of dubiety, of suggestion, of caution; and ever and anon there are purple patches of self-depreciation. Nevertheless, certain sufficiently positive conclusions gradually emerge which are capable of brief statement.

Mr. Maitland, then, thinks of what afterwards became England as in the main settled by English freemen cultivating their land with the aid perhaps of a slave or so apiece, but unaffected to any noteworthy extent by any previous agricultural system. So far he agrees with the Germanists. To each such adult freeman, head of a family, he assigns in the beginning, as his normal holding, a long hundred (120) of the local 'acres'—which is his interpretation of the *hide*. But now, unlike all those, from Sir Henry Maine and Bishop Stubbs downward, who have been affected by 'the mark theory,' he altogether refuses to make this freeman's holding

subject to any sort of communal ownership. There were, indeed, from the first, apparently over a large part of the country, groups of more or less contiguous residences which grew later into mediæval villages as we know them. The holdings were, moreover, composed of intermingled acre-strips; but they were bound to one another only by the customary rotation of crop and fallow which 'must have appeared less as the outcome of human ordinance than as an unalterable arrangement established by the nature of things;'[1] and private ownership was as complete as the strong sense of the family tie would allow it to be. There was no village 'moot' worthy of the name: the manorial court was the result of later 'feudalising' tendencies: and much of the 'communalism' of subsequent centuries was apparently the consequence of 'seignorial pressure.' The growth of seignorial authority and of 'the manorial system' Mr. Maitland explains as the slow result of many causes—the transfer to private lords of royal rights, the 'commendation' of the weak to the strong, the encroachments of magnates, lay and ecclesiastical. Above all, the pressure of Danegeld was 'fully capable of transmuting a whole nation.'[2] It is Mr. Maitland's most novel and, so far as we can see at present, his most valuable contention that *manerium* in Domesday is a technical term, meaning nothing more or less than 'a house against which geld is charged,' and responsible for the geld which lies on any land that is in any way subject to the power of its holder.[3] Agrarian history, instead of being characterised by the permanence of relations, as Mr. Seebohm, in agreement with the spirit of modern evolutionary thought, would have us believe, 'becomes more catastrophic as we trace it backwards.'[4] Of these catastrophes the Norman Conquest was one of the greatest. The formation of what we may by anticipation call 'manors' had gone a very long way before that event; but much still remained to be done before the external symmetry of the

[1] P. 347. [2] P. 8.

[3] Pp. 120, 121. [But see the recent criticism by Mr. J. H. Round in the *English Historical Review* for April 1900.] [4] P. 365.

thirteenth century was realised; and of this the greater part was accomplished by the Norman Conquest and the violence that accompanied it. 'We cannot treat either the legal or the economic history of our peasantry as a continuous whole; it is divided into two parts by the red thread of the Norman Conquest.' [1]

In this attempted reconstruction of early English social history, there is much that seems to promise solidity. The proposed explanation of the original meaning of 'manor' deserves serious attention. That, however, does not necessarily carry with it any very far-reaching conclusions. Very different in that respect is Mr. Maitland's argument concerning the *hide*. If there was from the first only one kind of *hide*: if that *hide* consisted of as much as 120 acres of arable land with the appurtenant pasture; if that was the ordinary holding of the great majority of the individual heads of cultivating families—then it does seem difficult to find any considerable space for provincial *villae* with their *coloni* and *servi*. The proof that is offered us is cumulative, and needs minute examination in detail. How much of it Mr. Maitland could surrender and yet produce conviction remains to be seen. But certainly much of it is open to grave doubt. For instance, it is requiring us to attribute extraordinary stupidity to those who drew up the early land charters, to ask us to believe that the technical language of Roman law for the conveyance of ownership was employed for a mere conveyance of a 'superiority.'

Mr. Maitland regards himself as but opening the way to further investigation; and that investigation has a sufficiently hard task before it. There is one consideration to which we would invite attention. If the *yardland* arose simply from the fissure of the *hide*, it is surely surprising that the process of disintegration should so very generally have gone just to the point of producing the *yardland*, and no further. Much of the effectiveness of Mr. Seebohm's argument was due to the impression of uniformity it produced. Mr. Maitland

[1] P. 60.

has sought with skill and success to weaken the impression; he delights in revealing heterogeneity and irregularity. Nevertheless, if we are not very much mistaken, over the larger part of England and over wide districts of Germany the thirty-acre *yard*, or *hufe*, was so far more common than any other for the *plenus villanus*, the *Voll-spanner*, as to be deemed normal. There may be reasons, in the productivity of the soil or in the spread of fashion, for this result, but it is not what we should have expected on Mr. Maitland's hypothesis.

But 'Domesday Book and Beyond' is not to be lightly disposed of. Students will have to work over it for several years to come; and though it is in great measure caviare to the general, there is perhaps no work in which profound learning is so gracefully and amusingly handled.

MR. SEEBOHM'S 'TRIBAL SYSTEM IN WALES'[1]

That the appearance in 1883 of Mr. Frederic Seebohm's 'English Village Community' opened a new period in the study of mediæval social and economic history, no longer needs saying. That book did two things: it gave us a knowledge, such as we had not possessed before, of the daily life of the mass of the English people; and it created a presumption that the explanation then currently accepted of the genesis of those conditions was altogether inadequate. But it has to be confessed that it did not quite succeed in making clear to its readers the directions in which its author himself looked for a solution of the problem. It was understood that Mr. Seebohm abandoned the theory which traced back the manor to a free village community; it was frequently supposed that he substituted a purely 'Roman' origin.[2] This impression was a natural result of the emphasis Mr. Seebohm laid, and very properly laid, on the late-Roman *villa* and on its resemblance to the mediæval manor: it was confirmed by the natural association in many minds of Mr. Seebohm's name with that of M. Fustel de Coulanges. But a more careful reading will show that Mr. Seebohm was even then not disposed to find in the

[1] [*Political Science Quarterly*, June 1896; apropos of *The Tribal System in Wales*, being part of an Inquiry into the Structure and Methods of Tribal Society, by Frederic Seebohm, LL.D. (1895.)]

[2] See, for instance, Vinogradoff's *Villainage in England*, p. 33; Digby's *History of the Law of Real Property*, Preface to fourth edition.

Roman *villa* the last word in the discussion. He will be found arguing that 'the tribal system' of early Germany itself showed a tendency towards a manorial organisation.[1] The later 'manor' may thus, as he frequently remarks,[2] have had 'a complex origin'—in German tribal conditions on the one side, as well as in Roman methods of estate management on the other. So far, however, as the argument in the 'English Village Community' goes, the 'tribal' element is looked for mainly in the German migration: and, as a result of his examination of early Celtic evidence, Mr. Seebohm goes so far as to say that 'the pre-Roman tribal system in Britain was evidently not the parent' of the later manor.[3]

Subsequent reflection has only strengthened Mr. Seebohm in his conviction that, by the side of Roman institutions, we have to make room, not indeed for a village communalism, —the stage of the discussion is past in which that could any longer be thought possible—but for the tribal system as an almost universal factor in the formation of mediæval institutions.[4] His investigations for some time past have been devoted to the problem of the constitution of tribal society; and the results of these investigations, so far as they have gone at present, are now before us in 'The Tribal System in Wales.' That Mr. Seebohm should begin with Wales is hardly perhaps what we should have anticipated, considering the conclusions of the earlier volume. The existence of a mass of 'remarkably full and detailed Welsh documentary evidence' would hardly have furnished a sufficient motive, did not Mr. Seebohm now believe, whatever he may have thought twelve years ago, that 'a substantial knowledge of the facts of one tribal system,' even though it

[1] *English Village Community*, p. 345.

[2] *Ibid.* pp. xiv, 346, 414, and 'compound product,' p. 422.

[3] *Ibid.* p. 252; cf. p. 345, 'The Welsh system was not directly approaching the manorial arrangement, except perhaps on the mensal land of the chiefs,' and side analysis. Nevertheless, even in this book, the Romans are spoken of in another place as 'strengthening the manorial element on British estates' (p. 411).

[4] *The Tribal System in Wales*, Preface, p. viii.

be a Celtic one, will serve as 'a key with which to unlock the riddles of others.'[1] He does not here express the further opinion, which we have some reason to believe he has come more distinctly to entertain, that the evidence now warrants our tracing the social evolution which culminated in the manor, behind even the Roman occupation, back into the purely Celtic period.

It must be said at the outset that 'The Tribal System in Wales,' while not so startling and far-reaching in the scope of its argument as 'The English Village Community'—and that was impossible from the nature of the case—is a book which distinctly furthers the discussion, and makes at least one contribution to it of fundamental importance. As compared with the treatment of Celtic material by previous writers, like Sullivan, Maine, and Skene, there is an evident gain in concreteness and consistency—a gain due, as it would seem, to the 'economic' interest which compels the investigator to picture to himself the realities behind nomenclature. And the one permanent contribution is the account of the Welsh *welc*. The earlier book of Mr. Seebohm and the later have thus rendered like services to historical science: whether or no it has helped us with the 'origins,' each has made a great positive addition to our working knowledge of conditions well within the documentary period. Before 1883 nobody really knew, in any living sense, what the *virgate* was; now it has become a commonplace starting-point of discussion. And so the Welsh *welc* was all the time in the Welsh printed material; it was even in the Welsh chapter of the earlier book: but it had not obtained for itself a prominent and secure place in our thoughts until it was put in the forefront of the argument in 'The Tribal System in Wales.'

Accordingly it must not be thought any detraction from the merits of the book to say that the whole argument of Mr. Seebohm calls for thoroughgoing criticism, and demands more documentary support, if it is to be accepted, than

[1] P. viii.

Mr. Seebohm has so far furnished. Mr. Seebohm himself does not claim finality; he 'prints this part of the essay separately' with the express object of securing a consideration of the Welsh evidence 'on its own merits;' and I am confident he will himself prefer that the piety of disciples take for the present a controversial form. Therefore, in the present article there will be given first a synopsis of the argument of each chapter, slightly rearranged occasionally, and then such critical observations as it may seem to call for. These latter will be hardly intelligible without the book, and may be skipped by the general reader.

Chapter I. sets forth 'the land system in Anglesey as described in the Extents' of 1294, 1339, 1351, and 1352, soon after the conquest of North Wales (1282), and when, as we find from these same documents, the pre-conquest conditions, so far as the mass of the people was concerned, were practically unchanged. Anglesey was then and is still, it must be remembered, a district, for Wales, 'exceptionally agricultural.' There were in that island four 'manors,' in the language of the Extents; and one of these is examined in detail. The 'manor' of Aberffraw, which had been the seat of the princes of North Wales, consisted of two portions, a larger and a smaller, separated by a mile or so of ecclesiastical territory. The larger portion was made up, in the first place, of what the later Extents call the 'demesne,' including five carucates of (arable) land, three mills, two meadows, and the fishery; and the demesne itself consisted of 1. a *Maerdref* ('the prince's home farm . . . cultivated by *villani of Aberffraw*') occupying four carucates, 2. *Trefcastell* ('the farm homestead of the Maerdref') with one carucate attached to it, and, 3. *Garthey* (some fourteen little gardens of cottiers). In the same larger portion were also the holdings of the 'free tenants,' who appear as four sets of *heredes*, each set called a *wele* (literally 'a bed'). The smaller portion of the manor, on the contrary, was exclusively occupied by 'villeins,' arranged in three groups or 'hamlets.' All the villeins were subject to money rents, to heavy payments in kind, and to the performance of a

large number of day-works; while but little was due from the free tenants except money rents. Moreover, the tenure of the villeins, both on the *Maerdref* and on the outlying hamlets, was 'of the nature of *trefgevery*,' i.e. it involved some sort of *group responsibility* for dues. The use of this term serves to identify their position with that of a prince's *aillts* (to be spoken of later) as described in the Welsh Codes; though in the case of the *aillts* the feature of their position on which most stress is laid is the 'regulation' by which *equal division* of the land was brought about within the group, with no recognition of individual claims to inheritance. Outside the manor proper there were, in the surrounding territorial division called a *cantref*, a number of *villae*, occupied some by free tenants and some by *villani* and some by both, paying rents in money and in kind to the prince. But of these we are told little, and our attention is concentrated on the manor itself.

The point most obscure in this account is the nature of the *Maerdref* and the relation to it of the 'villeins of Aberffraw.' Was it like the 'demesne' of an English manor? That is what is suggested by 'the prince's home farm,'[1] and similar phrases. Or was it like the *villenagium* of an English manor, and was there no separate 'demesne' in the narrower sense? This is what is implied by the argument that 'the land of the *Maerdref* was of the nature of *regulated*' or servile land.[2] May it not have included something like a manorial demesne *and* something like manorial land-in-villenage? The latter, because we are told, in the records, of 'tenements' from which were due considerable payments in kind; the former, because these tenants were also liable to some 900 'day-works,' which must have been on land other than their tenements. A somewhat similar but less serious difficulty is presented by the position of the villeins of the smaller portion of the 'manor:' there also it would seem that there must have been some distinction between the tenements and the land on which the day-works were

[1] *The Tribal System in Wales*, p. 15. [2] P. 18.

to be expended. These are, indeed, questions as to which Mr. Seebohm may reply that his readers, with the evidence set before them in the Appendix, may as fittingly hazard a conjecture as himself; and they are mentioned only to show that it is hardly so easy to picture the Aberffraw of the thirteenth century as Mr. Seebohm's pages might suggest.[1]

As to the free tenants, it should be noticed that at Aberffraw they seem to have all been attached to the service of the prince's household; and it is only by anticipating the argument of later chapters, and not from any clear indication in the evidence presented in this, that they can be called 'successors of the Welsh free tribesmen,'[2] and their money payments a commutation for 'the old food-rents of the free tenants.'[3]

In the second chapter, the most important in the book, Mr. Seebohm turns to the free tenants, and seeks to make their position clear by the aid of an Extent of the Castle and Honour of Denbigh of the year 1335. From this Extent it is evident that the land of that district was then held in *lecta* or *weles*, terms designating both the holders and the holdings. That these *weles* were groups of kindred, descended from an ancestor whose name the *wele* bore, is clear from the lists of persons there given with the prefix *ap* to their names, from the use of *progenies* as an equivalent for *wele*, and from the frequent description of the tenants as *coheredes et participes*, or *coheredes et parcenarii*. The geographical areas called *villatae* were occupied by these *weles* in such a way that sometimes a *villata* was divided among several *weles*, sometimes a *wele* had shares of more

[1] There are, however, a number of smaller points in the exposition more open to criticism. Such is the account of the relation of the 'manor' to the *cantref* and its subdivisions the *cymwds*. On p. 1 there is a manor 'in each cantref,' while on p. 4 there is one in each of two cymwds; cf. the vagueness—'cantref *or* cymwd'—of pp. 26, 90, 136, 149. We may question the appropriateness of the use of the term 'Norman' for English officials of 1294 and half a century later (pp. 3, 5, 8, 51, 125, 135, 235, 237 *et al.*)

[2] P. 13.

[3] P. 9.

than one *villata*, and sometimes a *wele* occupied the whole of a *villata* or even more. From each *villata* 20*s.*, the 'tunc pound,' were due to the lord; and the obligation was divided among the *weles* in proportion to their share of the *villata*. The *wele* itself was composed of four degrees of kindred; and the holdings—if not of the *weles*, as Mr. Seebohm thinks, at any rate of the primary fractions of them, which had been allotted to each son of the original ancestor and which were known as *gavells*[1]—remained undivided; although individual rights of user were carefully defined. The physical features of the Denbigh district favoured a pastoral life and put difficulties in the way of an extension of tillage, being in these respects more characteristic of Wales as a whole than were those of Anglesey. This fact, when combined with what we have learned of the *wele*, suggests that the free population was composed of

> communities of graziers of cattle, with rights of grazing . . . in different parts of the district; each community, with, it may be, its score or two of kinsmen, forming a complex unit, one in its relations to the other kindreds, but nevertheless with intricate internal hereditary and family divisions and rights.

There is evidence for *weles*, presumably of the same character, in other parts of North Wales and also in South Wales.

All this is admirably set forth; and that some such kindred-holding was then general among fully free Welshmen can no longer be doubted. Mr. Seebohm, indeed, gives the impression that such methods were characteristic *only* of the fully free, unconsciously perhaps anticipating a subsequent argument. For *priodarii*, as the tenants are sometimes called in the Extent, does not, as Mr. Seebohm himself points out later, necessarily mean 'free tribesmen,' though to them it was most commonly applied;[2] and in 1335 there seem to have been as many *weles* 'in tenura nativorum' as 'in tenura liberorum.'[3]

[1] P. 35.

[2] P. 31; but cf. pp. 122, 123; and Appendix, p. 93, where care is taken to add 'liberi' to 'priodarii.'

[3] See, e.g., Appendix, p. 72.

In the third chapter Mr. Seebohm begins to utilise the less trustworthy material presented by the Welsh Codes and Triads. He makes no attempt to determine their dates and varying values, but points out fairly enough that 'if the Codes contain a body of customary law, which in natural course would produce the condition of things described by the Surveys' already looked at, 'their authenticity will be substantially confirmed.' 'If,' also, 'the legal traditions of more doubtful date and origin,' the Triads, 'supply reasons, in tribal sentiment or in more or less archaic details of custom, for the legal rules of the Codes, they themselves become evidence which cannot be wholly ignored.' He then seeks to show that there existed in ancient Wales a sharp 'distinction between tribesmen and non-tribesmen, primarily one of blood,' and therefore wellnigh insuperable; and that this was the real significance of the later anglicised and manorialised classification of 'free' and 'bond,' *liberi* and *villani* or *nativi*. The tie of kindred among the tribesmen was exceedingly strong; and Mr. Seebohm traces several circles of kin-association. First of all, there was 'the kindred to the ninth degree of descent,' with its chief and its other officers. A sentence, not free from obscurity, in one of the Codes lends some colour to the assertion that this chief of kin was afterwards replaced by a 'lord;' and we may go on to suppose that the practice described elsewhere in the Codes, according to which a son at the age of fourteen was brought to a lord to become his man and receive from him support, had taken the place of an earlier usage in which the young tribesman became dependent on the chief of kin—a chain of argument, however, whose links are hardly strong enough to carry much weight. The Triads, it is next pointed out, speak of the *cyvarwys*, or rights acquired by every native Cymro on attaining the age of fourteen, as 'five free *erws* (acres), co-tillage of the waste, and hunting;' and it is remarked that such statements 'do not seem, on the whole, inconsistent with the facts just learned from the Codes.' Indeed, Mr. Seebohm seems to regard the acquisition of *cyvarwys* as identical with the grant of maintenance

by the lord (or chief of kin)[1]—a bold surmise, for at first sight the two things seem to have nothing in common but the age of the recipient, and, indeed, to belong to different environments, the one to a growing chivalry, the other to pastoral life.

The Codes not only reveal the larger kindred group, composed of relatives to the ninth degree of descent: according to Mr. Seebohm they present rules as to inheritance of land which serve to explain the lesser kindred to four degrees already disclosed to us in the *welcs* of the Extents. It is laid down in the Venedotian Code of North Wales that brothers are to share land; that when all the brothers are dead, their children, being cousins, are, if they please, again to share equally; and again their children, being second cousins: and the same rule occurs in different terms in the Dimetian Code of South Wales. The final division and settlement of claims could not take place till all the grandsons had died; and therefore, until then, the original holding of the ancestor would 'remain the external unit.'[2] Hence the constitution of the *wele*.

This is a thrilling piece of construction; but there are a good many perplexities attached to it. In the first place, it is not clear that the distinction of the Codes between those of Cymric blood ('innate' Cymry) and those of alien blood is made more intelligible by being described as one between 'tribesmen and non-tribesmen.' Was there only one 'tribe' among the Cymry? Then, again, though we may readily believe that the later distinction between *liberi* and *nativi* went back to a distinction between Cymry and non-Cymry, it might be well to strengthen this contention by the citation of unmistakable evidence, considering that Mr. Skene, with the same material before him, had no hesitation in regarding the *aillts* of the Codes (who confessedly answer, in part, to the later *villani*) as 'native members of the tribe.'[3] The conclusion based on the rules of the Codes as to re-

[1] P. 68. [2] P. 75.
[3] *Celtic Scotland*, iii. 200, 205.

partition of land-rights from generation to generation, until second cousins get their turn, is not greatly strengthened by the citation[1] from the Denbigh Extent to the effect that inheritance was allowed no further than the fourth degree; for this Denbigh record does not hint at renewed partitions, and deals only with the case of succession to a man who has no nearer kin than a nephew or cousin.[2] The latter part of the chapter is rendered uselessly bewildering, I cannot help thinking, by the introduction of a fresh gradation of kinship groups to the fourth and ninth degrees (not to mention another to seven degrees) for the payment of *saraad* and *galanas*[3] (like the Teutonic *wergelds*). As Mr. Seebohm points out later,[4] these are not coincident with the lesser and greater kindreds before considered, inasmuch as they are based, not like the latter on agnatic, but on cognatic relationship.[5]

The further we go, the more conjectural the argument becomes. Chapter IV. deals with the relationship of the kindred groups to the occupation of land. Little is said, however, of the greater group, and our author confines his attention almost entirely to the lesser group-to-four-degrees, identified by him with the *wele*. His conclusion is that the head of such a kinship was the 'landed person,' the *uchelwr* or *breyr* (translated commonly 'noble') of the

[1] *The Tribal System in Wales*, pp. 45, 73.

[2] On p. 45 Mr. Seebohm gives three brief paragraphs in English as a 'passage from the Extent,' referring in a footnote to Appendix B. i. This is probably a misprint, for there is no Appendix B. i. In B. h. (Appendix, p. 96), however, there is an extract from an Extent, of which the paragraphs on p. 45 are possibly meant as an abstract in English. But besides slight inaccuracies as to the amounts of the reliefs, the English makes the note refer to the sons and relatives of 'a free priodaur,' while the Latin says nothing of 'free,' and does say 'si quis eorum seu quorumcumque aliorum *Nativorum*.' The English also omits to translate the phrases '*si filium non habuit, tunc* frater ejus aut nepos aut consanguineus *qui ejus heres propinquior fuerit*.'

[3] P. 76.

[4] P. 101.

[5] Professor Maitland has some excellent observations on the urgent necessity of clearing up this matter of the historic relation of agnation to cognation, in the *Economic Journal*, v. 592.

Codes; that 'in him were vested the rights of the *wele*;' that he represented it towards the outside world; and that the other members of the *wele* were not regarded as joint tenants, but, on the contrary, had nothing but rights of maintenance. It must be confessed that this is a dangerously expeditious way of getting a landed aristocracy out of a patriarchal régime. That there is no direct evidence for it, Mr. Seebohm would doubtless allow. And there are at least three objections to it. The Extents do not indicate that there was usually some one distinct head to the *wele*, after the death of the ancestor from whom it was named: Mr. Seebohm himself speaks of the sons and grandsons succeeding in the proprietorship of occupation rights. Nor is there any indication that these Denbigh *weles* had grown or were growing into territorial lordships. And lastly, the lord or chief of kindred who is referred to [1] as providing maintenance for the young tribesman is, according to the argument of the previous chapter, not the head of the kindred-to-four-degrees (which does not clearly appear in the Codes as an organised group), but the head of the kindred-to-nine-degrees. Perhaps Mr. Seebohm thinks that, on 'the passage from nomad life to settled occupation,' [2] the responsibility passed over from the head of the larger to the (supposed) head of the smaller group. If so, this is a position that needs to be stated and argued.

Assuming, however, this relation of the ordinary tribesman to the head of the smaller kindred as proved, Mr. Seebohm sets about explaining the long list of chattels which is given in one of the Codes in a connection which implies that they were private property. The ordinary tribesman is to be looked upon, he maintains, as

> a little dairy farmer with separate homestead, chiefly engaged in making butter and cheese; but with a car and yoke of oxen for carrying and ploughing, with corn crops growing on his five free *erws*, as well as corn in the bin. And thus his maintenance was not provided by his sharing in a common meal, or receiving doles in money or in kind from the common purse or produce of

[1] P. 92. [2] P. 87.

the kindred, but the result of his own labour and use of the cattle and *cyvarwys* which was received as his tribesman's right on his coming of age.[1]

This, however probable it may seem, stands or falls with the construction on which it is based.

So much then for the 'free tribesmen,' for whom, as no such words as 'tribe' or 'tribesmen' seem to appear in the Codes, it would probably be better to substitute some such term as 'the free Cymry.' In Chapter V. we turn to the non-Cymry, the 'strangers in blood,' and their position according to the Codes. As a rule, says Mr. Seebohm, they appear, whether described as *taeogs*, *aillts*, or *alltuds*, as 'located either on the *maerdref* of a prince or in separate *taeog-trefs*,' apart from the free Cymry—an account with which the situation at Aberffraw at the time of the English conquest is delightfully consistent. Now 'the peculiar feature of the *taeog-tref* as described in the Codes was the entire absence of any rights of inheritance, all the *taeogs* sharing equally in the land;'[2] and, as we have seen, the use of *tir cyfrif* to denote such a tenure connects these passages of the Codes with the Anglesey *trefgevery*, involving joint responsibility. Mr. Seebohm regards this peculiar kind of tenure as 'the natural result of carrying out the tribal principle that there was no true kinship and inheritance among strangers in blood,' i.e. non-Cymry; and so he arrives at a clear-cut distinction, henceforth regarded by him as fundamental, between *tir cyfrif*, the 'register' land of aliens on the one side, and *tir gwelyawc*, the land held in *wele* tenure by Cymry on the other. But though 'regulated' *taeog-trefs* were the rule for non-Cymry, Mr. Seebohm allows that strangers 'in better circumstances' were permitted to settle on the waste of a chieftain or *uchelwr*, and so in course of time to create non-Cymric *weles*, bound to the soil but also irremovable after the fourth generation. This enables him to explain the *weles* of *nativi* in the Denbigh Extent; but at the same time it comes very near surrendering his theory that the Cymry

[1] P. 99. [2] P. 117.

obstinately refused to recognise anything like kinship on the part of aliens. Nor can it be said that it is an altogether satisfactory explanation of the origin of the intermingled free and villein *weles* of Denbigh. Unfortunately the extracts from the Denbigh Extent printed in the Appendix appear to omit some of the passages concerning the 'native' or villein *weles*. But even from those here given it is clear that the *weles* 'of natives' sometimes paid *tunc*;[1] and yet *tunc* was a commutation of the *gwestva*, or payment in kind to the prince, which was peculiarly characteristic, so Mr. Seebohm declares in the next chapter, of the 'free tribesman.'[2]

Chapter VI. deals with chieftainship. The designations used for the Welsh princelings suggest, argues Mr. Seebohm, that their authority was in most cases based on ideas of kinship—not a very conclusive argument. The scanty evidence as to the conquest of the western part of North Wales from the Gaels by the Cymry under 'Cunedda and his sons,' and of the western part of South Wales by his descendant Maelgyn, in the fifth and sixth centuries respectively, is next interpreted as showing that 'tribal chieftainship' itself was 'that of a family'—a sort of princely *wele*.[3] The evidence is not convincing; and it is strange that Mr. Seebohm does not lay more stress on that conquest itself, as furnishing a likely explanation of the existence, especially in those parts of North Wales, of a subject non-Cymric population.[4] More satisfactory is the account, following the Codes, of the chieftain's food-rents from free tribesmen, commuted later for money, as well as the explanation, suggested by a comparison of the Codes with the Extents, of the later *villata* as 'the geographical unit from which the *tunc* pound was due.' The more burdensome food-dues paid by non-Cymry are also set forth, but not in so clear a light.

This is the end of the main argument. Hitherto we

[1] E.g. Appendix, p. 77. According to the quotation from the Venedotian Code, on p. 15, it was usually the duty of 'the men of the maertrev' to 'pay the tunc of their land.'

[2] P. 154; and see the index, *s.v.* gwestva.

[3] Pp. 143, 144.

[4] But see *Addendum, infra*, p. 106.

have dealt with no material of assured antiquity earlier than the thirteenth century, though the Codes appear to present many 'archaic' features. In Chapter VII. Mr. Seebohm seeks to show the probability that the picture he has drawn is true for a much earlier period. The Book of Chad, belonging originally to Llandaff, contains in a handwriting of the ninth century a number of records of donations of land to the church; and two of these transfer a *tref*, with a *census* resembling very closely in character the winter and summer payments from *tacog-trefs* set forth in the Codes. Growing still bolder in his flight, Mr. Seebohm finally rests upon some entries in a twelfth-century Life of St. Cadoc, which go back in substance, he believes, to the end of the *sixth* century! They do not claim to be contemporary records; but his conclusion (from an elaborate argument as to the recurrence of the same names as in Gildas, and as to their similarity to seventh-century continental documents) is that they may be relied on for a substantially true statement of what actually took place. Now these mention the grant of '*cibaria per tres noctes*,' resembling the *gwestva* from free tribesmen, and also the payment from *villae* granted to the church of *pensiones* resembling in character the *tacog* food-rents. The implication is that where the food-rents existed, the rest of the system, of which in the time of the Codes they formed part, existed also.

Looking back now over the course of Mr. Seebohm's exposition, the reader may perhaps agree with the estimate with which this article began, viz. that in forcing upon our attention the Welsh *wele* of the thirteenth century consists the chief value of his treatise. The theory which he puts forward of the origin of the *wele* needs further support: his views as to the relation of the *wele* to 'tribal' organisation, and as to the creation of the social classes of later centuries, cannot be regarded as much more than brilliant hypotheses. It is necessary, even if ungracious, to say this, because in the present chaos of ideas as to social origins, there is some danger lest what may be called 'tribalism' may seize the command, *vice* the mark theory retired, before it has proved

its authority. But as yet we hardly know what we mean when we speak of a 'tribe.' Mr. Seebohm rather assumes the notion than explains it.

Nevertheless we owe a debt of gratitude to Mr. Seebohm for the determination with which he has compelled what before was a bewildering jungle of Celtic nomenclature to yield up to us some sort of intelligible shape. We have now something to discuss that we can at least try to make a mental picture of: and that is a great gain. But Mr. Seebohm's work has a way of growing upon one on repeated reading; and it is not unlikely that further consideration may reveal a cogency in his argument not now as apparent as one would like. If so, my excuse must be that 'The Tribal System in Wales' is not an easy book to read.

[Addendum.—Much new information will be found in *The Welsh People*, by John Rhŷs, M.A., Principal of Jesus College, and David Brynmor-Jones, M.P. (1900). This contains a valuable chapter on the history of land tenure, of which 'the greater part' was written by Mr. Seebohm, as a portion of the *Report of the Royal Commission on Land in Wales* (1896). It gives a lucid summary of its author's conclusions; with this addition, that the permanent distinction between free and unfree is now definitely traced back to the conquest by Cunedda (*The Welsh People*, p. 396; *cf.* the preceding criticism, *supra*, p. 104). I must confess, however, that I am left with a growing inability to picture to myself the formation of 'weles,' as we find them in the thirteenth century, from the operation through centuries of the rule of inheritance as explained by Mr. Seebohm. I cannot help thinking that the 'weles' suggest a certain stereotyping of the divisions of land at an early date. What will be altogether new to his readers, and is most suggestive, is the account which follows of the survival of the mediæval free holdings, except so far as they have been disposed of voluntarily, and the conversion of the servile tenures into the present year-to-year tenancies, after an intermediate period of long leases. Mr. Seebohm's comparison between the results of historical evolution in Wales, England, and Ireland is deserving of careful attention.]

DR. GROSSMANN ON THE PEASANTS OF BRANDENBURG[1]

'THE history of the emancipation of the peasants is the history of the social question of the eighteenth century' in Europe; and since Professor Knapp of Strasburg, with this appeal to the attention of economic students, issued his substantial treatise on 'The Emancipation of the Peasants, and the Origin of the Agricultural Labourers in the Older Portions of Prussia' (1887), a considerable literature has begun to grow up on the subject. The greater part of this literature, however, does but concern itself with the details in particular districts of the emancipating movement whereof Knapp has sketched the outlines. In the main results of Knapp's investigation, which is primarily devoted to the century and a half between 1706 and 1857, there seems to be a general and just acquiescence. Dr. Grossmann's essay does not attempt to call these in question; it is distinguished from most of the works which Knapp's book has called forth in that it is devoted to the earlier history of peasant conditions—to the more minute examination of that prior development to which Knapp, from the very nature of his task, could allot only a few introductory pages.[2] Such an attempt was certainly needed; for, although it is possible to describe the conditions

[1] [*Ueber die gutsherrlich-bäuerlichen Rechtsverhältnisse in der Mark Brandenburg vom* 16 *bis* 18 *Jahrhundert*, by Dr. Fr. Grossmann, in Schmoller's *Forschungen*. (1890.) Reviewed in the *Political Science Quarterly*, December 1892.]

[2] [But now see *infra*, p. 132.]

of 1700, and then the subsequent changes, without raising the question as to how those conditions came into existence, it is obvious that for a wider view of the whole history of the peasant class an answer to that question is essential. Are we to regard the emancipation as the last stage in an upward movement, on the whole continuous within historical times, or are we to regard it as the restoration of an independence and freedom which had passed away during the Middle Ages? The answer to this question Knapp had taken in substance from an article of the jurist Korn which appeared in 1873. Korn's view may be described as an application to the peculiar conditions of Brandenburg—conquered and colonised by the Germans in comparatively late centuries—of the theory of the originally free peasant, the *Altfrei*, which a school of German scholars has made the corner-stone of constitutional and economic history. According to this view 'peasants' and 'knights' were originally in Brandenburg nothing more than 'neighbours.' Knapp so far departed from this position as to concede that in most cases the colonisation was brought about by 'knights' or nobles, who received grants of land from the prince and brought in German settlers to cultivate it. But he maintained that these nobles were not *Gutsherren*, but only *Grundherren*, a distinction difficult to put into English. It may perhaps be expressed by saying that the country was not divided into estates (such as would be called in England 'manors') whereof part was cultivated by the lord and part by more or less servile tenants; but into districts in each of which almost the whole area was occupied by free peasants in a very loose and slight subordination to a superior. The creation of *Rittergüter*, or manors, was brought about by the degradation of these peasants, a process which was still going on in the fifteenth and sixteenth centuries, and reached its furthest point after the Thirty Years' War.

All this historical construction Dr. Grossmann now calls in question. He maintains that the *Rittergut* system was established during and with the colonisation itself; and he adduces weighty arguments in support of this contention.

The most striking, perhaps, is that in an agreement between the prince and his barons in 1283—at a time when the colonisation was but recently completed—the peasants are spoken of as *subditi vasalli*, and the *vasallus*, or noble, is described as the *dominus bonorum*. How vital this correction is, and what a new colour it gives to all the subsequent history, the author himself hardly realises. For instance, he so far accepts Knapp's version of events as to concede that there was a distinct depression of the peasants from the second half of the fifteenth century onward. Whether this is shown by the '*Gesindezwangdienst*' is not clear without further explanation than is here given; Dr. Grossmann, writing for German specialists, omits much that the English reader has to guess. But certainly the legislation on the subject would seem to be not altogether unlike the English statutes of the period dealing with agricultural labour—statutes which witness to increasing *independence* on the part of the peasant class. All the other alleged proofs are clearly inadequate. The demand of the knights in 1484, that no one should receive the peasants of another, may never have been necessary before because they had never run away. The punishment of a peasant who wrongfully sued his lord in the prince's court may be, similarly, not a new restriction, but a check upon a new attempt to secure greater independence. It is true that the lord was given the right on certain conditions to buy out a tenant; and this permission was often abused. But Dr. Grossmann points out that the lords had enjoyed this right long before the fifteenth century.

As a matter of fact, the number of peasant holdings remained unchanged down to at least 1527; and the favourable conditions of peasant life as compared with surrounding countries caused a considerable migration into the Mark. Facts which, when we begin with a roseate view of the peasants' original condition, point to a tightening of the lord's hold upon them, may very fairly, when we recognise that the manorial system was of long standing, be regarded as indicating that his authority was already decaying.

Dr. Grossmann more than makes up, however, for his

over-ready acceptance of customary views on this point, by his criticism of another very generally accepted position, viz. that the introduction of Roman law at this period was detrimental to peasant rights. He shows that if any danger did arise from the Roman law in Brandenburg, it was only from the tendency of the lawyers who were influenced by it to generalise too freely. He points out that the great jurists of the sixteenth and the early part of the following century expressly recognised the proprietary rights of the tenants; as, for instance, in the dictum of Scheplitz in 1634: Dominium horum praediorum est penes rusticos, et nobiles habent tantum dominium percipiendi; and that, so far as the supreme tribunal of the Mark was concerned, the action of the judiciary tended to put obstacles in the way of the removal of the peasants from their holdings.

The author gives a careful account of the various classes as they were to be found in the seventeenth century—an account in which we can discern many curiously minute resemblances to the varieties of copyhold tenure in England; and he endeavours to show that the *Lassiten*, who make their first appearance about the beginning of the eighteenth century, were the descendants of peasants settled on lands left vacant during the Thirty Years' War. All this is very well worth reading, even by students of economic history outside of Germany, and it displays much acuteness and original research. But it is to the earlier portion of the book that I have thought it well to draw especial attention as of more far-reaching importance. It is interesting to observe that German scholars are now beginning to limit the range of the 'original freeman,' who once so completely monopolised the historical field. Even when they leave him his freedom, they are inclined to deprive him of the greater part of that social independence which freedom was once thought to imply.

PROFESSOR INAMA-STERNEGG'S GERMAN ECONOMIC HISTORY[1]

It is possible that some future historian of thought may assign to Dr. Inama-Sternegg's 'Deutsche Wirtschaftsgeschichte' (appearing with its first volume in 1879, and now with its second) a position in the nineteenth century something like that of Montchrétien's 'Traité de l'Économie Politique' in the seventeenth. The two books, widely as they differ in most other respects, have this in common: their titles alone, whatever may be the value of their contents, are important landmarks in science. They both indicate that the time had come for marking off a particular field of inquiry from the larger area in which it had before been included, and both set the example of staking out the lot. Dr. Inama-Sternegg's book, wherein almost for the first time economic history has made its appearance as an independent study, is but a later stage in that process of specialisation which earlier led to the rise of political economy.

It is interesting to watch a new study, a fresh academic discipline, coming into existence. It probably touches two or three already established studies; and its first cultivators are commonly men who are already engaged in teaching one of these established studies, and who seem to themselves to be doing nothing but extending the area properly belonging to their own subject. And thus men meet together in a common interest who set out from very different starting-points, and realise with difficulty their new brotherhood.

[1] [*Deutsche Wirtschaftsgeschichte*, by Karl Theodor von Inama-Sternegg. Zweiter Band: 10. bis 12. Jahrhundert. (1891.) Reviewed in the *Political Science Quarterly*, December 1893.]

This is what is clearly taking place as to economic history. It is drawing students almost equally from the fields of 'pure economics' and 'pure history.' We are yet in the midst of the process, and it would be unwise to predict the precise result: at present the old 'historical' or 'economic' training, as the case may be, is still pretty easily discernible in each individual investigator; but there are signs already of an identity of point of view, a community of purpose, which may in no long time do much to obliterate the marks of origin. To Dr. Inama-Sternegg not even Professor Menger would deny the name of economist. Among the most useful parts of his latest volume are those in which he shows how, during the period of which he is treating, phenomena gradually emerge corresponding to the modern economic categories of rent and profit, capitalist and *entrepreneur*. And indeed, his use of such criteria is so apposite and illuminating as to confirm us in the belief that for the future economic historian a preliminary study of economic theory will always be of utility. It does at any rate provide a standard by the use of which, if only by contrast, the essential characteristics of a period may be realised the more vividly.

Yet such a training has its dangers, and Dr. Inama-Sternegg has not, perhaps, wholly escaped them. Is it unfair to attribute to the deductive bent which the study of economic theory is apt to produce a certain fondness for what is, apparently, purely *à priori* reasoning? I say 'apparently;' for as he has abstained of set purpose (p. x) from referring to modern writers, it may be that in every point of his argument the author supposes himself to be resting on the solid ground of ascertained fact. A reviewer who is but imperfectly acquainted with the German literature of the subject can only state an impression: certainly it does sometimes look as if our author filled in the gaps in his construction by deductions from current theories which are still far from complete proof. This impression is confirmed by not a few of his quotations from original authorities. He has not cared, he tells us, to 'heap up citations,' but rather to produce 'characteristic

passages word for word, and so to give us directly the contemporary expression of the facts.' But one cannot help seeing, when we come to look at some of them closely, that though they may mean what Dr. Inama-Sternegg quotes them as meaning, they may often mean something different.[1]

It is in his treatment of the agrarian organisation that his prepossessions are most evident. For the constitutional aspects of his subject he depends, he tells us, on Waitz; hardly realising that every theory of primitive or mediæval political constitutions already implies some sort of theory of social conditions. Accordingly he assumes throughout 'the old social organisation of the Germans, which rested upon the association of free men, with equal rights and equal social and economic value.'[2] Doubtless there was a time, in the nomadic or tribal stage, when 'the common freemen' were the most important part of the population. But Dr. Inama-Sternegg brings this condition of things well within historic times, and adopts without hesitation that particular view of it hallowed by the term *Markgenossenschaft*.[3] No doubt when he began to write, about 1878, the mark theory was still in absolute possession of historical circles; and it is still vigorously defended. But its acceptance by our author has certainly rendered it harder for him to give a consistent impression of agrarian progress; at the very time when, as he points out again and again, the characteristic phenomenon was an elevation of the position of the serfs,[4] he is still concerned to show the absorption of the 'common freeman'[5] and the seizure of the *Allmend*.[6] How strong such prepossessions are, may be shown by the fact that he confirms his statement as to the clearing of the new eastern provinces largely by 'simple freemen,'[7] by citing the grant in 1002 of an 'estate (*praedium*) with the wood adjoining 100

[1] Thus p. 62, *nn.* 1 and 2, and p. 85, *n.* 1, have little apparent connection with the text.

[2] Or 'weight.' His words are: 'der Genossenschaft gleichberechtigter und gesellschaftlich wie wirthschaftlich gleichwertiger freier Männer.' See p. 35.

[3] E.g. p. 222.

[4] E.g. p. 199.

[5] E.g. p. 38.

[6] E.g. p. 207.

[7] 'Die Rodung des kleinen freien Mannes' (p. 7).

mansi' to a *miles*; and the further fact that he cites an exchange by a *nobilis miles* of an estate (*praedium*) in Bavaria with two serf families on it for one in Carinthia with eight serf families, as an example of the voluntary migration of a *simple freeman*.[1]

Now that we have fallen into a mood of adverse criticism, let us have done with the ungracious task as speedily as possible. The book is somewhat disconnected; topics are dealt with at disproportionate length; and there is often an undue air of certitude. Would that we already knew for certain anything like as much as our author seems to suppose! But all these defects cannot prevent our recognising the work as one of signal importance. It is the first attempt to subject all sides of the economic activity of Germany to scholarly investigation, and to show their inter-relation. In this respect—as taking possession of and defining a territory to be subsequently worked over with more minute and piercing inquiry—he may be compared with his English contemporary, Dr. Cunningham. But, to change the metaphor slightly, if Dr. Cunningham, taking all English history for his province, has been more *extensive* in his methods, Dr. Inama-Sternegg, taking only the Middle Ages, has been more *intensive*; and on several corners of his smaller field he has done a good deal of the steady plough-drudgery of original investigation.

To the student of English economic history, the work will, probably for many years, be an indispensable companion. It will preserve him from the fault which has detracted from much of the historical writing of the last fifty years—the provincialism which, knowing little of the inner life of other countries and dazzled by the brightness of Parliament, imagines an English development altogether different in kind, as well as in degree and period, from that to be seen elsewhere. It is time that the 'comparative method' should begin to be put to its true use.[2]

[1] Pp. 7, 8 and *n.* 2.

[2] [A notice by the present writer of the first part of the third volume (1899) of this work will be found in the *Economic Journal* for Sept. 1899.]

PROFESSOR MEITZEN'S 'SETTLEMENT OF THE GERMANS'[1]

Once more we have a book such as those of the brave days of old, lordly in bulk, magistral in contents; none of the booklets of this effeminate age, but three ponderous volumes and, for additional ballast, a whole atlas of maps; no mere *Beiträge* or *Studien, zur* this or that, but a masterful grasp, a confident handling, of the whole of a vast province of the world's history.

Since the death of Georg Hanssen, Professor Meitzen has been the acknowledged chief of agrarian historians and agrarian economists in Germany, and, indeed, in Europe. Serving as he did for many years as a commissioner to carry out partitions of land between peasants and landlords, he was able to form an intimate acquaintance with the minutiæ of rural life: intrusted by the government with the task of drawing up a description of the agricultural condition of Prussia, he has enjoyed unusual official facilities in the collection of information. For more than a quarter of century he has been travelling to and fro over Germany, gathering village maps and field plans; he has formed a score of pupils who have contributed to his store; and now the result, or, rather, one half of the result, is before us. A subsequent series of volumes is to give us 'the German colonisation of the

[1] [*Political Science Quarterly*, March 1898; apropos of *Wanderungen, Anbau und Agrarrecht der Völker Europas nördlich der Alpen*, by August Meitzen; erste Abtheilung,—Siedelung und Agrarwesen der Westgermanen und Ostgermanen, der Kelten, Römer, Finnen und Slaven. (1895.)]

East,' as well as 'the system of large farming, and the progress and outlook of modern agriculture' north of the Alps. In these three he confines himself to the original settlement, and to the agricultural organisation before it was broken in upon by comparatively recent forces.

That the book provides a vast amount of information need not be said. Had Professor Meitzen given us nothing but the village maps, he would have done us a great service; and their value will be increasingly recognised, even if the text to which they are attached should come to be disregarded. He has thrown out at least one large idea—the idea that differences in village formation go along with racial differences—which is sure to play a great part in subsequent discussions.[1] Yet, somehow, one experiences a certain sense of disappointment as one makes one's way into the book. Professor Meitzen undertakes the most urgent of all historical tasks: he undertakes to set forth the origin and growth of the economic system of the Middle Ages—of what for brevity we may call 'feudalism' and 'serfdom.' We see the structure rise beneath his hands, yet we cannot help thinking it looks somewhat unsubstantial. There may be solid foundations beneath, there may be steel girders supporting the flying arches; but the ordinary spectator cannot discern them. In 'Siedelung und Agrarwesen' we are given conclusions rather than argument: references are rare, and sometimes altogether absent at critical points. It would be pleasant to take it all on trust, were this not dangerous. Perhaps the reviewer's best course will be first to explain Dr. Meitzen's general plan, and then to select the central portion of his undertaking and set forth just what it is that we are there told.

Professor Meitzen begins by defining the area of 'national [2]

[1] The idea has already been utilised by Professor Maitland, in whose *Domesday Book and Beyond* it appears in the contrast drawn between *nucleated villages* and *the land of hamlets and scattered steads*. Compare Maitland's maps, p. 16, with those of Meitzen, *Anlagen*, 1, 2.

[2] No English equivalent can give an adequate impression of the flavour of *Volksthum, volksthümlich, Volksland, &c.*

German settlement'—the untouched home of the German people (*Volksland*), bearing the exclusive character of a definite nationality (*Volksthum*), and never subjected to foreign influence.[1] This he finds in the area bordered on the west by the Weser and the highlands which extend in a south-westerly direction to the junction between the Main and the Rhine; on the south (roughly) by the Main and the Thuringian forest; on the east by a line drawn between Leipzig and Kiel; and including on the north all the Scandinavian countries except Finland. This area, according to Professor Meitzen, is also distinguished from the lands on either side of it by the characteristic grouping of its rural habitations. In this *Volksland* they are grouped in large villages, with houses placed together in a compact group, but on no definite plan. *Dorf*, indeed, originally meant *Hauf*, a heap; and these purely German villages may, therefore, properly be termed *Haufendörfer*.[2] Immediately to the west of them the peasants do not really live in villages at all; such groups of houses as look like villages are not ancient settlements of actual cultivators of the soil. They live, on the contrary, in isolated farmsteads, *Einzelhöfe*, each with his own square or round fields surrounding it. To the east of the unspoilt Germans, on the other hand, there are again villages; but they are marked off from the truly German ones by their more formal shape—their houses are symmetrically arranged, either round a circular enclosure or on the two sides of a short street. These are christened *Runddörfer* and *Strassendörfer*. It is assumed, as the obvious conclusion to be drawn from geographical and historical facts, that the *Einzelhöfe* are to be regarded as characteristically Celtic, the *Rund-* and *Strassendörfer* as characteristically Slavonic.[3]

Having thus marked out the boundaries of the three great territories to be investigated, Professor Meitzen gives,

[1] I, 33. [2] I, 47.

[3] The possibility that such differences may be due to situation and soil and not to race is hardly referred to. But the remark (III, xxii) about the Alpine *Einzelhöfe* is probably capable of a wider application.

of course, the first place to the *Volksland*, and proceeds to describe its other 'national peculiarities.' They are what Mr. Seebohm and other writers have already made us familiar with in England—the intermixed strips, the compulsory rotation of crop and fallow (*Flurzwang*), the normal holding (*Hufe*) and the like. What is fresh in Meitzen's account is the stress he lays upon the division of the arable fields into *Gewanne* (*furlongs* or *shots*). This he explains as due to a desire to give each shareholder a piece of every sort of land;[1] and he regards it as so peculiarly characteristic of the villages of the *Volksland* that he drops the term *Haufendörfer*, and substitutes for it *Gewanndörfer*.[2] In the *Uebersichtskarte*, prefixed to the atlas volume, the *volksmässige Gewanndörfer der Germanen* occupy the centre of interest. But it can hardly be said that the propriety of the term has been altogether made apparent, for it seems that Russian village fields are also divided into furlongs.[3]

How, then, have these typical German *Gewanndörfer* arisen? Professor Meitzen gives us the answer, with hardly a tremor of hesitation, in a section occupying no more than thirty pages.[4] That this is all the space he devotes to it, out of some nineteen hundred pages, shows how sure he is of his ground. If once he is granted this for his foundation, it will be absurd to hesitate about anything else: here are to be found all the fundamental data on which he subsequently builds. This will be my excuse for dwelling at an otherwise disproportionate length on one little section, leaving the Swabians and the Franks, not to mention the Celts, the Romans, and the Slavs, to wait upon their unalloyed-German betters. To avoid misrepresentation, I shall largely quote Professor Meitzen's own words.

The Germans of the time of Tacitus, Professor Meitzen sets out by telling us, were definitely settled on the soil. But this had come to be the case only at a comparatively recent period.

[1] I, 170. [2] I, 122.
[3] II, 221, and Fig. 86; cf. II, 182, and III, *Anlage* 97.
[4] I, 131–161.

In Caesar's time they still pursued 'a pastoral life without permanent tillage:' his description is altogether irreconcilable with anything like the later village. But the population was already as large as the country could bear with the methods then employed for obtaining food. Moreover, we must not think of the land as unpossessed, or of agricultural settlements as taking place in out-of-the-way wildernesses. All the land that could be made use of was already employed by the tribesmen,[1] and, in this sense, taken possession of.

No other conclusion is possible than that in the creation of fixed settlements we are to discern a crisis in the national life of the Germanic people—a crisis which was inevitable in its origin, and therefore made relatively rapid progress in the short space of a century.

The nature of this 'crisis' is illustrated by the example of the nomad of central Asia at the present day, who turns to agriculture only when he can no longer maintain himself as a shepherd. Such resort to tillage on the part of the poorer tribesman might, however, easily prove prejudicial to the interests of the wealthy herd-owners, who would find their pasturage encroached on and their herdsmen leaving them. Accordingly, the *magistratus ac principes*, as Caesar calls them, would do what they could to limit in space and time these agricultural experiments. But they were not long able to keep the mass of the people content with an arrangement so unsatisfactory; and a permanent settlement had to be allowed.

We cannot but conclude that the pasturage must early have appeared insufficient, and have needed to be supplemented by tillage, and that, in spite of all the disinclination for the heavy work of the plough on which Caesar and Tacitus lay stress, the mass of the poorer freemen must have been ready to carry on this tillage in such a way as to suit the wealthier men (who dominated them by means of their possession of the herds, on which all were still dependent), until a

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Stammesgenossen. Dr. Meitzen does not anywhere, so far as I know, define *Stamm.* In I, 138, *Gau* is used as an equivalent or alternative.

time came when they [the mass of the poorer freemen] realised that such a sporadic agriculture involved heavy labour on their part, without giving them the advantages which a fixed settlement would bring, in the way of personal independence and regular returns. We may well believe that 'their betters' [*die Vornehmen*] endeavoured to persuade them, both on public and private occasions, by all the considerations adduced by Caesar,[1] not to give up the accustomed mode of life. In all the considerations there mentioned, there is, indeed, no word of the main motive influencing the *principes*—the danger to their pastoral wealth and to their whole position in life: over that they were silent, though it must have been notorious. But this seems to show that Caesar's account is correctly taken from the public speeches of wealthy Germans.[2]

The final adjustment 'in the small democratic German tribal states' took place in 'the sovereign popular assemblies' described by Tacitus. As the will of the majority of men under arms must finally have its own way,

the *principes* had at last to cease their opposition, and to bend all their energies to guide the revolution and to make it as subservient as possible to their wishes. Under the circumstances, these wishes of theirs centred in this: that the pasturages for their herds should be as little as possible encroached upon—that, in other words, a method of settlement should be carried out which should satisfy the main body of the common freemen upon a relatively small area of land, and leave sufficiently large stretches of land open, to be used, as before, for the raising of cattle. We cannot fail to recognise that the method of settlement displayed to us in the villages [on the one side] and the *marks* [on the other] satisfied the claims of both parties in the easiest possible way. The majority of the heads of families wished to settle down; and were assigned, group by group, the localities in the tribal territory (*Stammgebiet*) which were most fertile and had already been sporadically tilled. These allotments were so large that each group received as much land as seemed sufficient for the competent subsistence of its families, and not too

[1] '*Ejus rei multas afferunt causas . . .*'

[2] From which it will be seen that these Germans were already pretty self-conscious in their proceedings, and not unacquainted with the modern arts of politics. But there is more to come in the way of conscious planning.

much for the labour power of the several peasant families. The remaining land was retained by those who did not settle down to agriculture, to the exclusion in whole or in part of those who did so settle. We have already, in substance, the distinction between villages and *marks*.[1]

A more distinct impression of these processes of settlement may be obtained, Professor Meitzen goes on to argue, from what we find in the 'hundreds.' That the division into hundreds of the people and the land was an early German institution cannot be doubted, nor that it had somehow to do with '120 freemen capable of bearing arms—roughly the

[1] Particular attention must be paid to Dr. Meitzen's use of this word *mark*. As will have been gathered from the above, he uses it, not as a synonym for a village or for village lands, but in contrast to them. In certain parts of Germany, notably around Hanover and Bremen, there are stretches of woodland controlled by corporations known as *Markgenossenschaften*, which are composed of persons, not living together on the land itself, but settled here and there, usually in neighbouring but sometimes in quite distant places. As a rule, their rights in the *mark* are bound up with their arable holdings. They hold an assembly (to determine upon common action in the use of the woodland) known as a *Märkerding* or *Markgericht*, but more commonly *Holtding*, presided over by an *Obermärker* or *Holzgraf*. There seems to be scarcely any documentary evidence concerning these *marks* earlier than the sixteenth century; and the only conclusion to be derived from their boundaries is that they are not identical with those of the *Gauen* (I, 129; III, 77-80). Professor Meitzen believes, however, and speaks throughout as if there could hardly be any doubt, that these *marks* are 'remains of the old national land,' and the rights to them 'a survival from the national right of every member of the nation to make use of the pasture for his herd,' &c. He chooses also to employ the term *mark* exclusively in this 'stricter and more proper' sense. This usage will not, perhaps, altogether conduce to mutual understanding; but the word is intelligible enough in this sense when explained; and there can be no objection to it if we distinguish what is still unproven theory from the known facts of the case. Yet that it involves certain difficulties even for Professor Meitzen may be illustrated from I, 573, where he almost complains of the Rhenish documents because '*die begreiflichen Auffassungen von Almende und Mark*' do not show themselves '*mit hinreichender Schärfe*'—that is, the documents do not harmonise with *his* '*Begriffe*.' [On the modern use of the term *mark*, see *infra*, p. 161.]

same thing as 120 fathers of families.' Unfortunately, there are certain historical difficulties about the hundreds of what is now Germany; and to determine their original extent as geographical areas, we must have recourse to the '*Herads* or *Harden* of Schleswig, Jutland and the Danish Isles.' 'The *Harden* have been the foundation of the judicial and administrative system from time immemorial [*von jeher*], as the Danish laws of the thirteenth century show.' Now the average size of the Danish *Herad* turns out to be 5·3 square miles, confuting the opinion of some that the hundred was the territory of 120 villages, and leaving open to us only the other opinion that it was the territory of 120 families. But for what purpose can the people have been divided into groups of 120 families? Not for war—for reasons we must pass over. The reason for this particular number and for the size of its territory is best sought for in an economic motive, and it is to be found in the conditions of pastoral life. One hundred and twenty pastoral families, consisting on an average of eight members each, would need for their support an amount of stock which (reducing horses, goats, sheep, and swine to the common denominator, cows) may be reckoned at thirty-six hundred cows. Thirty-six hundred cows would need sixteen million kilograms of hay. To produce this quantity of hay, a territory would be required to roam over of about three square miles. Comparing this with the figure 5·3 previously obtained from Denmark, and 2·48, which is the average extent of the Swedish *Herad* in *cultivable* land, we arrive at the probable conclusion that about a hundred and twenty families are to be regarded as 'the convenient and customary number to carry on the necessary common operations of a pastoral life.' The hundred was originally the band of herdsmen,[1] and the term was naturally transferred to the territory over which its flocks and herds wandered.

Turn now to Germany proper. Ceasar tells us that the Suevi numbered 200,000 men capable of bearing arms. This

[1] *Die Hundertschaft der alte Hirtenhauf.*

means about 125,000 families,[1] that is, 1,000 hundreds. By a striking coincidence, we find that the territory occupied at that time by the Suevi would actually allow each hundred on the average 2·4 square miles. This was still just enough; but it was a tight fit, even under pastoral conditions.

A doubling of the population, such as might come about in forty years of peace, could not be supported without a resort to tillage. Thus, then, we get to the appearance of villages, and the distinction between them and the *marks*, through the natural development of the original pastoral conditions. The custom of living in camp-companies [*Lagergenossenschaften*] of about one hundred and twenty families was for the time quite satisfactory. But when the numbers grew, and adjoining districts were taken up by other companies, there was nothing left for the mass of the people but to turn to tillage and settled life, distasteful as these were to them. Yet in the territory already occupied there remained for a long time a surplus of land not required for agriculture, which was open as before to the rich herd-proprietors to continue their pasturing thereon.

In order that 'the settlers' should be free from trouble from the 'numerous herds of the pastoral-economies' continuing outside, a certain definite area had to be marked out for them. This was the *Dorfmark*, the *Gemarkung*, the *Flur*; while outside lay the proper or *common mark*, the old *Volksland*.[2]

Some of the *Dorfmark*, it is true, remained uncultivated; this was, however, no longer a portion of the *common mark*, but the exclusive property in common of the settlers in the village. It is best designated *Almende*, to distinguish it from the tilled land actually divided up, on the one hand, and from the *Marks* proper on the other.

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[1] Reckoning half the population masculine, half of these children, and one-fifth of the rest aged, 200,000 adult men means a population of 1,000,000. Reckoning the household at eight persons, the number of families comes out at 125,000.

[2] This, it will be observed, is a different use of the word from that in the opening sections. It is akin to the meaning that until recently was attributed to the English *folcland*.

It was equally necessary that the enjoyment of the marks should be free from dispute, and therefore defined.

At first, considerable detachments of the tribe (*Stamm*), especially the richer and more important members of it, will have continued to wander in the old fashion up and down the wide pasture grounds still left to them. But, as, sooner or later, *all* settled down,

something had to be determined about the land still outside the cultivated areas. This must have been the work of 'the sovereign power, the tribal assembly.' We must think of this power as 'authorising the settlements;' and we cannot suppose the process was carried out 'without many proposals, contests, deliberations, agreements, and contracts.' The final outcome must have been the result of 'contractual and legislative arrangements.'

Assuming the amount of knowledge and organising ability implied in the foregoing, we have no difficulty in explaining the *Hufen*. These were the equal shares given, immediately after the land had been taken up, to the several heads of families, themselves equal. 'We have also to suppose that there were a certain number of rich men, who provided others with cattle and implements, and set them, whether free or slaves, to work in the *Flur*.' It would be a natural corollary from the *Hufen* plan to give such men two or more shares of land, in proportion to the labour-force contributed, without regard to the status of the labourers, considering that they would have to bear in like proportion the public burdens which were assessed on the *Hufen*. And finally we have (for various reasons) to think of these village settlements as settlements of kindred (*Familien- oder Sippenansiedelungen*). Within the kindred there must have been other inequalities, due to the privileges of the head of kin and the shifting claims of inheritance.

Here, then, drawn in strong and clear lines, is the constitution of the earliest settled agricultural society in Germany, as set forth by Professor Meitzen. The above statement of his conclusions contains also all the arguments with which he supports them; and it will be sufficient of

itself to suggest grave scruples in the way of their acceptance. Without, however, raising any of the more fundamental questions which the problem involves, let us follow Professor Meitzen's own train of thought and call attention to one or two of the difficulties that occur.

Professor Meitzen refers to the phenomena of nomad life in the present day in central Asia as explaining the forces at work in the German transition to agriculture. A convenient collection of citations from von Middendorf and other recent travellers will be found in Professor Hildebrand's 'Recht und Sitte'[1] (1896)—a book, be it said in passing, which contains a singularly fresh and independent treatment of the anthropological evidence and of its bearing on the problem of Germanic origins.[2] But when one comes to look into the actual course of affairs among the pastoral peoples of central Asia, one finds that it differs in every single respect from that imagined among the Germans, except in the one circumstance that want of food leads in some way or other to a resort to agriculture. Among the Kirghises and similar peoples, (1) it is occasional individuals, or families here and there, who, falling into poverty from the loss of their herds through pestilence or other causes, (2) are obliged to consent to receive plough-oxen, seed, &c., from the hands of their wealthy neighbours, and stay behind (or return from time to time) to cultivate patches of land, (3) falling thereby into a certain dependence[3] upon the owner of the stock, to whom they pay a fixed proportion of the annual crop, retaining for themselves hardly more than enough to live upon. This is, however, altogether different from the settlement (with the consent and after the deliberation of a sovereign legislature) of whole village groups,

[1] See p. 47. [2] [Hereon see *infra*, p. 157.]

[3] It is true, as has been said, that 'dependent' and 'independent' are 'inexact and ambiguous.' But it may well be that the situation is incapable of exact and unambiguous statement in modern English. Thus, in the present case, one observer distinguishes only between '*les maîtres du bétail et les laboureurs*,' while another does not hesitate to speak of '*Sklaven*.' We may be pretty sure, however, that either 'labourer' or 'slave' would give a mistaken impression. 'Dependent' would seem a more entirely non-committal word.

consisting of men who, though poorer than others of the tribe, are yet, for the most part, able to set up their little establishments independently of those who do not choose just yet to settle down. Notice, also, that while the Kirghises are able to go on in the way described for an indefinite time—the great majority of the tribe, including certainly the wealthy owners of large flocks, showing no disposition to abandon their pastoral life—Dr. Meitzen imagines all the Germans to have been led, 'sooner or later,' by the pressure of population on the means of subsistence, to settle down to agriculture, apparently in the same sort of villages as were established by the 'poorer freemen' who first set the example.

There is another criticism to offer. Dr. Meitzen's German population is made up of 'the rich' (*die Vornehmen*) and 'the poorer freemen'—the latter being, however, economically independent. One would hardly guess from his account that there existed any other class.[1] But, if we are to get any suggestions at all from central Asia, it is surely worth while remembering that Tacitus describes a class of persons among the Germans whom he calls *servi*, but goes on to compare to the Roman *coloni*—not, he tells us, attached to their lord's household, but each having his own homestead and paying dues in kind. The resemblance between these Tacitean *servi* and the Kirghis tillers of the soil would seem too obvious to be passed over in silence.[2]

Let us now pass to the second period in the great historical process, the period of transition from the villages and marks thus described to the landlordship (*die Grundherrlichkeit*) of later times. The matter, so far as 'the old,

[1] The case is imagined of '*Vornehmen*,' who '*Freie oder Knechte zur Arbeit in der Flur stellen.*' But this is clearly regarded as exceptional.

[2] When we compare '*frumenti modum . . . dominus injungit ut colono*,' with v. Middendorf's '*Anteilswirthschaft ist im Lande durchgängig im Gebrauch, so dass der Arbeiter einen bestimmten Anteil an der Ernte bezieht, im Uebrigen aber nicht eigentlich höriger Knecht ist*,' anthropology begins to seem of some use.

never-Romanised national lands'[1] are concerned, is disposed of with the same astonishing brevity. A section of some twenty-eight pages[2]—all that is assigned to it—is occupied with the same large assertions and general considerations as make up the thirty already looked at. But, as it is entitled 'the *entrance*' of landlordship, and is preceded by a section entitled 'the *origin* of landlordship on Romance soil,' we must look first at the latter.

Leaping over the territory between the Weser and the Lower Rhine, occupied since a very early period by Celtic *Einzelhöfe*, we find, according to Dr. Meitzen, villages of the German type scattered all over the Celto-Roman territory overrun by the German arms—in southern Germany, on the middle Rhine, and in a great part of northern France and of England.[3] These represent settlements of the national sort (*volksmässigen Dörfergründungen*), wherein the majority of the free tribesmen (*die freien Stammesgenossen*) were able to satisfy the economic impulse which had driven them forward. But by their side were to be found, from the first, something very different, to wit, estates belonging to landlords and cultivated by various classes of dependents; and in some districts, such as northern Gaul, these estates from the beginning greatly preponderated over the free villages. Here the Germans entered as 'a ruling, land-possessing, military aristocracy,' receiving, as the reward of conquest or from the subsequent favour of the kings, what had previously been the property of the Roman state or of the provincial magnates. Professor Meitzen goes over the familiar ground of the development of the benefice and the feud. Into this we need not follow him: as to the upper stages of the feudal structure there is comparatively little uncertainty. It is with the lower stages that we are now concerned; and, as to these, we gather from Professor Meitzen (1) that such estates were already in large part cultivated by *coloni*, who were left undisturbed; (2) that where *coloni* were not already to be

[1] The phrase of the first volume '*Volksland*' is replaced in the second by '*Volkslande*' and '*Volksländer*.' [2] II, 294–322.

[3] This conclusion is depicted on *Anlage* 66 *a*.

found, or not in sufficient numbers, the new owners would be anxious to bring on to their lands 'free or unfree folk who should take holdings in return for services, money payments or rents in kind' (from what classes we may suppose them drawn we are not told); (3) that such newly planted colonies 'might, indeed, conform in external appearance to the national popular (*volksthümlich*) village arrangement, e.g., in the partition into *Hufen*, but would really be fundamentally different from them.' In such plantations there could be no claim to equal treatment in the allotment of land; accordingly, there would be no reason for the *Gewanne*; indeed, each peasant's land could be given him in a few biggish blocks, of oblong or round shape. We are also shown, following Brunner, the various ways in which the seigneurial jurisdiction can be supposed to have grown up.

But, meanwhile, there also existed, as already observed, in other parts of the conquered provinces 'the possessions of the great body of the common German freemen,'[1] which at first and during the early centuries cannot, says Professor Meitzen, have been appreciably affected by the contemporary landlord estates. In the long run, however, even the old original free settlements fell in large measure under the power of lords. As to the how and the why Professor Meitzen has little to tell us. Indeed, he seems to pass over the problem very lightly, and is inclined to forget the sharp distinctions which he drew at the outset. So far as we can disentangle his meaning, it is that the fall of the common freeman was due to royal grants of jurisdiction and military command from above, and to commendation and surrenders of various kinds on the part of the peasants from below. But there is absolutely not a single reference given in the few pages devoted to the subject. Professor Meitzen evidently regards himself as building on the sure foundation of German historical science. The familiar explanation, inadequate

[1] '*Der Besitz der angesiedelten gemeinfreien deutschen Volksmasse*,' II, 280. Cf. the observation as to '*die altherkömmliche Volksgemeinde*,' II, 275.

before, does not sound any the more adequate as he states it.

Pass now from these Romance lands to the untouched-German soil, and we shall find that, in Professor Meitzen's view, the same process was repeated there, with apparently these two differences: first, that it took place some centuries later (not beginning in the Saxon land till the campaign of Charles the Great in A.D. 782); and, secondly, that the form of landlordism that now entered into competition with the *alten Volksthum* was the Frankish seigneury, the hybrid growth (*die neue Mischform*) from the diverse forces at work in the earlier period on Romance soil. From the forest lands (the *marks*), taken more or less into the possession of the conqueror, lordships were carved, and the like was done with confiscated lands. For these estates their new owners would seek to get tenants; as before, we are not told where they were to come from. Even with those freemen who remained undisturbed in their holdings, the situation must have been fundamentally changed by a concurrence of forces: from below, by the need of commendation or surrender to a lord to secure protection or relief from public burdens, by the introduction of the Roman theory of property, and by surrender to the church; from above, by grants of a jurisdiction which ultimately turned itself into landlordship. As before, all this is apparently offered to us as the unquestioned result of historical inquiry. If it is in any way rendered a more sufficient explanation of subsequent facts by the mass of modern agrarian data accumulated by Professor Meitzen, the fact is not apparent in these sections; and, to judge from the careful table of contents, there is no other appropriate place for it.

It may be observed, however, that Professor Meitzen departs occasionally from his own position that 'the condition of public law must be supposed in all essentials the same at the time of the Frankish invasion as at the time of Tacitus'—that is, as described by him. Thus, apropos of Nithard's division of the Saxon people into *edhilingi, frilingi,* and *lazzi,* he remarks that 'in these *lazzi* we are to see

conquered folk who had been allowed to remain in their old possessions, paying dues, and with a diminished freedom.'[1] In his account of Tacitean times, as we have seen, no such class is contemplated. Later he speaks of the surrender by individuals of separate *Hufen* to magnates, 'shaking both the popular common and the free *lassitic peasant communities* in their communal independence.'[2] And we are told of 'crown lands' and of 'estates (*Güter*) of the nobles,' such as we should hardly expect in a *Volksland* so *volksthümlich*, as we have had it described to us.

As the present writer has worked his way through the two or three sections selected for special examination, he must confess that his disappointment has deepened. What Professor Meitzen has done has been to show the possibility of new and interesting means of approach to the solution of a great problem, the genesis of mediæval serfdom.[3] That means of approach is the study of agricultural practice and rural conditions as they are to be found to-day, and in epochs for which we have abundant evidence. And he has contributed towards the data of this study a great mass of material. Yet it cannot but prove a hindrance to the proper use of his work, and it will probably delay not a few in their unbiased approach to the field, that he has at the same time spoken in the tone of one who can already determine the fundamental questions involved. The main lines of his theory, so far as central Europe is concerned, are after all nothing but those already laid down by the school of German constitutional and legal historians which reached its highest points in Waitz and Brunner. With his agrarian-economic material it has the loosest possible connection. And as the general conclusions of the German mediævalists are hardly any longer (outside Germany) received with the same confidence as of yore, as the beautiful picture of the German freeman is now begin-

[1] I, 297.

[2] I, 304. The German sentence really cannot be translated.

[3] In the modern literary sense of the term.

ning somewhat to fade, we shall perhaps best show our gratitude to Professor Meitzen by assiduously combining and recombining the definite facts he lavishes upon us, while carefully putting on one side, for the time, the broad generalisations by which they are accompanied.[1]

[1] [An imposing part of Professor Meitzen's structure, which has not been mentioned in the above article—his distinction between the Celtic and German type of dwelling—has recently been subjected to a destructive criticism by M. Jacques Flach in *L'Origine historique de l'habitation et des lieux habités en France* (1899). For Professor Knapp's judgment upon the book, see *infra*, p. 135.]

PROFESSOR KNAPP'S LECTURES [1]

Until within the last few years, agrarian history in Germany, when seriously dealt with at all, had been almost exclusively handled by constitutional or legal historians: outside Germany, of course, the subject received scarcely any attention. What these historians made of it, and especially their construction of the whole development from the time of the *Völkerwanderung* down to the twelfth century, is well enough known. It serves as the basis, it provides the underlying assumptions, for the text-books of early constitutional history still current in Germany and England. The more elaborate and artistic form given to the specifically agrarian part of it by von Maurer—the doctrine of the *Markgenossenschaft*, of the 'village community' which sank into the manor—has, it is true, been pretty generally surrendered of late by English writers; but in Germany it held its ground until very recently; and in both countries the more general assumptions, which find perhaps their most classic expression in the work of Waitz, have continued to be almost universally accepted as too obvious for discussion. In this teaching there was much to excite criticism; to the present writer, at any rate, it seems very evident that, in its main features, it was but a carrying back into the past of certain ideals of the first half of the nineteenth century.

[1] [*Grundherrschaft und Rittergut.* Vorträge, mit biographischen Beilagen, von Georg Friedrich Knapp. (1897.) Reviewed in the *Economic Journal*, June 1899.]

We can hardly fail to observe that for much of it there was very little direct evidence; the references which crowded the footnotes were commonly to scraps of documents which might be, indeed, fitted into the general scheme, but by no means compelled such an interpretation. This characteristic may fairly be traced to the purely legal training of the scholars in question: they were satisfied if they could put together a logically consistent series of formulæ; they felt no craving to visualise, to make a mental picture of, the social institutions they described.

For a more realistic and concrete treatment of agrarian history, Germany had to wait until the economists should take it in hand. They began to be drawn to it some twenty years ago, not merely by their 'historical' leanings, but by the political necessities of the hour. 'Industrial' difficulties are not the only 'social questions' in Germany, though foreigners sometimes speak as if they were: the lot of the agricultural labourer presents an equally pressing problem, in some respects a graver one; for if the socialist propaganda should ever carry away the rural population, as it has the industrial, the government would have to yield to social democracy. Accordingly it became the business of German economists to ascertain how the rural proletariate had arisen, and to see whether the causes which had created it were capable of modification or removal.

Conspicuous among these investigations was early to be seen the treatise of Professor Knapp of Strassburg on the 'Emancipation of the Peasants in Prussia;' and to Professor Knapp must be ascribed the still greater achievement of producing from his seminary a whole school of agrarian historians, who during the last twenty years have taken one after another of the provinces of Germany until there is now hardly a district which has escaped their scrutiny. All this work, be it observed, had an immediately practical purpose; it dealt mainly with very recent history indeed; it was usually content to begin in the eighteenth century; and the preliminary half-dozen pages were commonly based upon the generally accepted authorities. Within its range it was

exceedingly valuable: one might stake the case for 'the historical method' as a source of practical guidance to the statesman upon the lucid survey of the position of the agricultural labouring class in the several parts of the country which formed Professor Knapp's address to the *Verein für Sozialpolitik* in 1893, and fitly opens the present volume. Would that there existed anything equally good for England! But German thoroughness could not stop at immediate practical needs; Professor Knapp and his school were bound to reopen for themselves the question of 'origins;' and the interesting thing about this volume is that it shows an inclination to throw all the older doctrines overboard. For years M. Fustel de Coulanges seemed to have written in vain, so far as German scholars were concerned; now the independent movement, as it would appear, of German investigation is beginning to lead it to conclusions identical with his on the negative side, even though it hardly sees its way as yet to any very positive construction.

The new departure will be found in an address in this volume, summing up with approval the arguments of Wittich in his 'Grundherrschaft in Nordwestdeutschland' (1896), as well as in a review of Meitzen's 'Siedelung und Agrarwesen.' Wittich and Knapp decisively reject the notion, quite inconsistent with Tacitus, that the primitive Germans were free self-governing peasants, tilling their own soil. To them it seems more likely that 'the Germans of Tacitus were small landlords, a kind of social aristocracy, who met together in court and assembly, but never put their hand to the servile plough. They had dependents settled on their land (*angesiedelte Knechte*); and these were peasants who had to provide from the soil their lords' food. Landlordship, far from being a gradual evolution in historical times, was the oldest of known institutions; and it was out of it that later institutions arose.' For the Carolingian period, they are equally unable to accept the common view that serfdom grew out of the voluntary submission of the weaker freemen to the greater, to escape the burdens of military service, though there were doubtless many such

cases. 'But this was not the general process in Lower Saxony, because the dependent peasant was already the rule. When peasant holdings are given to a monastery, the donor is not the cultivating peasant, but his small landlord, who gives the land and the peasant on it. What happened in the Carolingian time was not the birth of landlordship, but a new allotment of the permanently dependent (*hörig*) peasants, leading to the formation of a relatively small number of great lordships instead of a large number of little ones.' The further sketch of the subsequent progress of 'villication' must be regretfully passed over.

The second article is even more outspoken. Professor Meitzen is a very solid representative of a class for which we can find no English parallel—that of professional agrarian experts, produced alike by the agricultural colleges and by the administrative labours of German officials in the regulation of peasant holdings: men learned in soils and manures, and at the same time thoroughly familiar with the details of local tenure, and with all the curiosities of peasant usage. The late George Hanssen was a man of essentially the same type—practical, and, within the range of his interests, a true historical scholar—furnishing indeed a wealth of material to younger men with wider interests; but yet capable of writing a long dissertation upon the origin of the three-field system with hardly a reference to the status of the people who worked it. As Professor Knapp remarks in a sympathetic character sketch of his old master, to be found in this collection, 'Hanssen sprang from a period in which there were as yet no social politics in Germany.'

Professor Meitzen's strength, in like manner, lies in his knowledge of existing conditions. In his recent enormous work, he has poured forth a flood of information, and he has been the first of German scholars to follow Mr. Seebohm's example and utilise modern field maps. But he is not content merely to set forth the life of the modern German *Junker*, *Bauer*, and *Landarbeiter*, or even of their mediæval predecessors; he must have his version of the beginnings; and here, with all his apparent originality of

argument, he is but repeating what he had learnt from Waitz and Sohm and the rest. His reputation is so great that it required some little courage for Professor Knapp to urge, however politely, that his whole doctrine of origins is mere hypothesis, and that another explanation might suit the facts equally well. But this is what he does here. The notion of Meitzen and others that the laying out of *Gewanne* and *Hufen* (*furlongs* and *virgates*) was *intended* to produce equality of holdings among free peasants, he properly declares far too 'rationalistic' for such times. He calls in question the supposed freedom and equality of the peasants; at any rate, as he shows, it is not a necessary presupposition of the open-field system. And the notion that the village with open fields is something specifically German while the isolated homestead is specifically Celtic is, he points out, much less obviously probable than that each corresponds to the geographical conditions under which it was the most advantageous method of settlement.

As I hinted above, Professor Knapp and his school are still in the stage of criticism. But we may assuredly expect that they will go on to more positive work upon the earlier centuries. They are at any rate free from any inclination towards 'Romanist' exaggeration; they are not likely to see the Roman *villa* in Germany unless they are compelled to! Only a few years ago English writers who ventured to cast doubt on the 'free Teuton' view of things were 'anti-Teutonic iconoclasts' even in England: with Professor Hildebrand[1] and Professor Knapp to keep us company, we may now feel tolerably comfortable.

[See *infra*, p. 157.]

M. FLACH'S 'BEGINNINGS OF ANCIENT FRANCE'[1]

The second volume of M. Flach's 'Origines de l'Ancienne France,' valuable as it is for the whole life of the Middle Ages, calls for attention in this place, where historical investigations are viewed mainly in their relations to the larger features of social evolution, chiefly on account of the early chapters, which may not improperly be described as one long polemic against the late M. Fustel de Coulanges. To M. Flach's treatment of other themes, such as the rise of the mediæval town, I hope to return on some other occasion.[2]

M. Fustel's view is stated by M. Flach[3] with sufficient accuracy as follows:

> The organisation of the country districts of Gaul, before and after the Germanic invasions, was based entirely on the Roman organisation. The Romans either did not know, or were but slightly acquainted with, the village; they knew only the villa, the large farmstead with its dependencies, the centre of a considerable estate. The villa system introduced by them into Gaul there developed and prospered. The Barbarians found it there, and adopted it so completely that all the rural population, with but few exceptions, was [soon] to be found distributed among these villas.

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[1] [*Les Origines de l'Ancienne France: X^e et XI^e Siècles.* II. *Les Origines Communales. La Féodalité et la Chevalerie.* By Jacques Flach. (1893.) Reviewed in the *Political Science Quarterly*, September 1895.]

[2] [See *infra*, pp. 177 *et seq.*]

[3] P. 28.

This, as we have just said, is a fair enough statement of M. Fustel's theory: though it should be carefully borne in mind that that great scholar took frequent occasion to make it clear that all that he was arguing for was the *predominance* of the villa system, and not its complete occupation of the field;[1] and also that by 'village' he meant not simply a cluster of houses, but something like the 'village' of modern France—'a group of some fifty or a hundred families not only free but *proprietors of the soil*.'[2] And upon such a theory M. Flach does well to concentrate his attention; for if accepted it would have the profoundest influence upon our conception of the subsequent social and economic history of France and, indeed, of western Europe. M. Flach's utterances have been received with a chorus of welcome by those to whom M. Fustel's opinions, or his methods of expressing them, were distasteful. And yet in my judgment M. Flach's book leaves the subject very much where it was before. That this is so will appear from a review of his argument.

1. As to Celtic Gaul.[3] Caesar tells us there were very many *vici*. True. But, as M. Flach goes on to say, it is extremely probable from other reports of Caesar that 'the population of these villages was composed of the clients and tenants of the chiefs, knights, and druids.' The full force of such an admission can only be grasped if we keep well in mind the significant words: 'Plebs paene servorum habetur loco.'[4] And to any one who has a keen sense of social evolution, the problem frames itself in some such question as this: What would be likely to be the effect of Roman rule when it came upon dependent groups such as M. Flach indicates? This is a question he makes no attempt to answer. Instead of doing so, he goes on to remark that according to Caesar there were *aedificia*, and they were scattered over the country. M. Fustel had argued[5] that the meaning of *aedificia* might be explained by the practice of Varro and

[1] *L'Alleu*, pp. 35 (top), 37 (top).
[2] *Ibid.* p. 38.
[3] P. 31.
[4] *De Bello Gallico*, VI, 13.
[5] *Origin of Property in Land*, p. 146.

Columella, who used the word to denote the farm buildings in the midst of a villa estate. M. Flach, on the other hand, declares that 'la plupart semblent de petites fermes éparses dans la campagne, habitation du *paysan* avec granges, écuries ou étables.' For all proof he refers to a number of passages of Caesar which speak of the difficulty of getting fodder when *aedificia* are scattered, or the like, and which give absolutely no indication of the social position of the persons to whom the *aedificia* belonged. And by thrusting in that little word '*paysan*,' which inevitably brings to mind the modern French peasant, he imports into Caesar just what he seeks to prove from him. If it must be confessed that M. Fustel, on his side, leans too heavily upon the authority of Varro, it must be pointed out that M. Flach's imagination is singularly limited by modern associations when it begins to play round 'rara et disjecta aedificia.' And then he throws evidence to the wind, and goes on: 'Leur réunion'—which Caesar has never hinted—'forme le village disséminé, dont le type se retrouve de nos jours en Bretagne et en Suisse.'

Perhaps! But between 'our day' and that of Caesar are eighteen centuries, in which a good deal could happen.

2. In any case, the relative numbers of the dependent groups whose existence M. Flach allows, and of the independent groups in which, without clear evidence, he also believes, we can only judge from what Caesar tells us of social conditions generally; and we have already seen what that is. M. Flach, however, goes on with happy serenity to the Roman period: 'Après la conquête romaine, les villages' (which? dependent or independent? that makes all the difference) 'disparurent-ils? Loin de là. Leur existence nous est attestée par les inscriptions et les itinéraires.'[1]

As far as the several parts of his argument can be disentangled it seems to be composed of the following propositions:

(*a*) That the inscriptions and laws make frequent mention of *vici*.[2] This is, of course, allowed by M. Fustel; but it is pointed out by him that the term *vicus*, designating

[1] P. 32. [2] Pp. 32, 33.

the lowest administrative unit, was applied to a street or to a quarter of a town, as well as to a rural group.[1]

(*b*) That rural *vici* were inhabited by various classes; by most of the middle class known as *possessores*, by townsfolk who had become *coloni* to escape taxation, by tenant farmers, by tenant slaves.[2] As to the last three classes, M. Fustel has whole sections on each, as *constituents* of the villa organisation;[3] where he undoubtedly differed from M. Flach was in supposing that each *vicus* thus inhabited was really the property of some one person or family or of two or three separate owners. As to the *possessores*, M. Fustel grants that there must have been some villages in which these preponderated, to account for the powers of joint action and self-government which some *vici* evidently enjoyed.[4] It is fair to argue, as M. Flach does elsewhere,[5] that he makes too sharp a distinction between 'villages d'hommes libres' and 'agglomérations de serfs.' But, after all, it is a quantitative question. M. Flach thinks it '*invraisemblable*' that most of the *possessores* lived in the towns; Professor Marquardt believes that '*grossentheils*' they did, and 'left on their property only *coloni*, slaves, and freedmen.'

Moreover, M. Flach himself declares that 'the rapid growth of the Gallic towns under Roman rule drew thither the aristocracy of the country, and henceforth they only visited from time to time their *aedificia now transformed into villae*, or their *villae* newly created.'[6] These are the estates on which M. Fustel fixes his—perhaps too exclusive—attention. In what proportion to these did the free or composite villages stand? M. Flach seems to assume that the latter preponderated. For an unpartisan opinion we cannot do better than turn to Professor Mommsen:

Such as Caesar found the Gallic communities, with the mass of the people held in entire political as well as economic dependence,

[1] *L'Alleu*, p. 38. Cf. Marquardt, *Römische Staatsverwaltung*, p. 8, and see also *ibid.* p. 9, n. 4, for the difficulties due to the circumstance that many of the inscriptions seem to refer to town *vici*.

[2] Pp. 34–37. [3] *L'Alleu*, pp. 50–79. [4] *Ibid.* p. 40.

[5] P. 49. [6] P. 34.

and an overpowerful nobility, they substantially remained under Roman rule; exactly as in pre-Roman times the great nobles, with their trains of dependents and bondmen to be counted by thousands, played the part of masters each in his own home.[1]

(*c*) That the *vici* had a local administration of their own.[2] That, where the other conditions allowed it, the *vici* might enjoy such rights, is proved by the laws; and that *some* did exercise them, is proved by the inscriptions. This M. Fustel allows,[3] though not so distinctly as one could wish. But that every *vicus* enjoyed local self-government is a different matter. Even M. Flach would allow that in many cases the *vicus*—as in the well-worn instance from Cicero's letter[4] — was nothing but a private estate.

3. Then comes a brief chapter on 'the villages of the Germans before the invasion'[5] We have to thank our author for excerpts from a report of the year 1844 upon the state of Algiers, which present some remarkable parallels to the well-known passage of Tacitus concerning the Germans. But the value of M. Flach's own attempt to reconstruct early German society may be not unfairly judged from his treatment of the other *locus classicus*, the passage from Caesar. To pass over his picture of the 'impenetrable forests and sandy plains (*landes*)' separating the peoples—for which he boldly refers to Caesar's 'vastatis finibus;'[6] what is to be said of this?—

> A l'intérieur de ce territoire, les chefs ou principaux de la peuplade assignent chaque année à chaque clan (gens) un territoire plus petit *que les chefs du clans répartiront à leur tour entre les diverses familles* (cognationes).

Caesar's words are: 'Magistratus ac principes in annos singulos gentibus cognationibusque hominum, qui una coierunt, quantum et quo loco visum est agri attribuunt.'[7]

[1] *The Provinces of the Roman Empire*, trans. Dickson, i. 93.
[2] Pp. 36–40. [3] *L'Alleu*, p. 41, n. 1.
[4] Ad me scribis, mea Terentia, te vicum venditurum.
[5] P. 43. [6] *De Bello Gallico*, V, 23.
[7] *Ibid.* VI, 22.

It will be seen that for *two* stages in the process M. Flach has absolutely no authority in Caesar. If we knew certainly, from other evidence, that, first, there was a distribution to *gentes*; that the *cognationes* were parts of the *gentes*; and that there, afterwards, followed a further distribution to these *cognationes*: we should have to say that Caesar made a singular muddle of his attempt to describe the method of partition. But we do not know all this.

4. Finally we pass to Frankish Gaul. Here M. Flach draws an important distinction. In the north, north-east, and east of Gaul he believes that the German clans remained united, and that they settled upon unoccupied territories:[1] there, apparently, the whole 'mark-system' grew up. Reaching this point M. Flach seems to rely entirely on his modern German authorities, especially Waitz; and he does not deign to consider M. Fustel's detailed examination of their evidence in his 'Recherches' and elsewhere; although he agrees with him as against some of his adversaries that the inhabitants of the villa in the section 'De migrantibus' of the Salic Law can hardly be regarded as co-proprietors. In the rest of France he supposes that 'the kings and principal chiefs seized the *villae*, whether still being worked or abandoned, and created new ones . . . by the aid of Gallo-Romans skilled in agriculture and versed in rural economy;'[2] but he urges that all the 'simple warriors' cannot be supposed to have become tenants of *villae*. They entered, he supposes, into the free or composite villages, and revivified them.[3] This seems possible, though M. Flach gives no very definite evidence in support of it. Here, again, the quantitative problem forces itself upon us; and this he does not face. He makes, it is true, a number of positive assertions, as that numerous places can be mentioned which were 'veritable villages,' although they bore the names of individuals with the suffix *acus*;[4] and he cites M. Longnon as testifying that places whose modern names contain traces of *vicus* were 'veritable villages' from the Frank if not from

[1] Pp. 56–59. [2] P. 55. [3] P. 56. [4] P. 50.

the Roman period,[1] but he gives us no means of testing the accuracy of the statements. The evidence adduced by M. Fustel certainly raises a presumption that from the first the large properties predominated; and if so, and if, under the pressure of taxation and invasion, the small proprietors were drawn into the *villa* vortices,[2] then it would appear proper to see in the fortunes of the *villae* the main clue to the early economic development of the country.

M. Flach's criticism is certainly not valueless. It puts us on our guard against the spirit of system which few readers of M. Fustel can have altogether failed to notice in his work. But it also suggests the remark that it behoves future workers in the field to start without prepossessions, and, as far as limitations of space will allow, to produce their own evidence in a shape in which it can be readily criticised. M. Fustel has evidently caused some exacerbation of temper by the rough treatment to which he has subjected certain respected teachers. But if his work is taken seriously, and personal animosities are forgotten, it will be clear that it is no longer enough to defend doctrines that have the support of revered names against what seems iconoclastic attack. The negative criticism of M. Fustel has gone too deep for this to be sufficient any longer. It is fresh constructive work that is now called for.

[1] P. 53. [2] Cf. p. 61.

MR. JENKS ON THE STATE AND THE CLAN[1]

'Law and Politics in the Middle Ages' is a brilliant book, and it will be a perfect godsend to many a young student of legal history. It tries to do—and, so far as exposition is concerned, in large measure succeeds in doing—what Sir Henry Maine did in so masterly a manner: light up the forest of technical detail with a few great generalisations, and make even the forms of legal procedure illustrate social evolution. Fifteen years have passed since the last of Maine's notable books, the 'Early Law and Custom,' was given to the world. During the interval, Seebohm, Maitland, and Round have made very large additions to our knowledge of early English institutions; while with Brunner and Schröder, Viollet and Esmein coming to be familiar names to English and American students, a beginning has been made in the direction of a Comparative Jurisprudence worthy of the name. Yet if the older generation of law students troubled themselves too little about history, the present generation are in some danger of being overwhelmed by the multiplicity of historical particulars commended to their attention. There might seem to be room for a new venture in generalisation; and Mr. Jenks, with an experience unusually wide for a comparatively young writer—including as it does personal observation of the workings of Australian democracy—and with a style both clear and forcible, would seem to be in some ways peculiarly well

[1] [*Law and Politics in the Middle Ages*, by Edward Jenks, M.A., Reader in English Law in the University of Oxford. Reviewed in the *American Historical Review*, July 1898.]

qualified for the task. He has, indeed, produced a fascinating book. Mr. Jenks has not only large ideas and a large way of handling them; he has also the gift of phrase. 'The Frank Empire was a sham Empire,' 'Trial by Jury gives the death-blow to trial by peers'—phrases like these will cling to the memory.

Yet, though we congratulate the reader, we cannot but feel some regret that Mr. Jenks should have written the book just at the present stage of historical investigation. What he sets before us is a new key to mediæval history This he finds in the struggle between the State and the Clan, and almost the whole book is a working out of the thesis. The exception is the first two chapters; in which he describes the 'sources,' with a view both to explaining what they are, and to showing the inapplicability of the Austinian definition of 'law.' This last would hardly seem necessary for those who have once read Maine's lucid lectures on sovereignty; but Mr. Jenks doubtless knows his audience. The remaining chapters, four-fifths of the book, are all occupied with an explanation of the way in which this struggle, first of the State against the clan proper and then against feudalism, which our author views as a reversion to the clan type, is reflected in the history of the administration of justice, of land settlement, of legal ideas of possession and property, and of the conception of contract.

But what is or was a 'clan'? This is Mr. Jenks's pet word, and, so far as I know, he is the first writer to make much use of it. One has a right to expect something like a definition; and yet throughout the book there is no more exact account than this—'a body of relatives' 'larger and somewhat (more) indefinite' than a 'household.'[1] The author takes for granted that everybody knows what a 'clan' is; but as a matter of fact we are all very vague on the subject, and our notion of it shifts to and fro between a large 'family' and a small 'tribe.' It sometimes looks as if this were the case with Mr. Jenks also; for much that he says about the State 'using the law of inheritance as a means

[1] P. 162.

of destroying the clan'[1] might be regarded equally well as simply steps in the destruction of the agnatic family. The word 'clan' reminds us, to begin with, of Scotland. But the early history of the Scotch clan has yet to be written; and any investigator will have to reckon with Skene's view of it as a later development *within* the tribe, caused by the pressure of economic conditions and effected by something very like contract. Where we are first introduced to the word by Mr. Jenks, we are told that the Teutonic state grew out of a 'league of clans.' This is said to be a common result of war, and we are asked in a note[2] to 'see this idea excellently worked out by Morgan' in his chapter on the 'Iroquois Confederacy.' But with Morgan the confederacy was a confederacy of 'tribes,' on the basis of common *gentes* (in Morgan's sense of *gentes*). Instead of being 'not homogeneous' and 'based on entirely different principles' from the clan,[3] Morgan's confederacy arose by 'natural growth,' and 'demonstrates the reality as well as persistency of the bond of kin.'[4] With Mr. Jenks 'clan' is apparently (in some passages) much the same as the Roman *gens*.[5] Then were the 'Tacitean clans, the Chatti, the Chauci, the Cherusci'[6] *gentes?* As soon as we begin to ask questions like these we must realise the need for a far more definite terminology than we as yet possess. 'Family' and 'gens' and 'phratry' and 'clan' and 'tribe' must all be given a clear connotation before we can make any scientific use of them. Something is being done by Mr. Seebohm in his study of Celtic institutions, much by Mr. Baden-Powell in his description of Indian conditions. Both of these, indeed, throw about the adjective 'tribal' somewhat too freely; and perhaps even more is to be hoped from anthropology, now that, thanks to Professor Westermarck, it also has got rid of the spectacles of theory. If Mr. Jenks could have waited until his starting point had been a little clearer, his work, I am sure, would have been of more permanent value.

[1] Pp. 225 seq. [2] P. 99. [3] P. 74.
[4] *Ancient Society*, p. 134. [5] P. 162. [6] P. 73.

MR. BADEN-POWELL'S 'INDIAN VILLAGE COMMUNITY'[1]

It may seriously be questioned whether 'the comparative method,' which our fathers were so proud of having first applied to the history of society, has done more good than harm. It has helped to lift history out of mere antiquarianism; it has led to the formulation of sweeping generalisations, which have appeared to bring masses of tedious facts under easy control of the scientific imagination; it has helped to bridge over the chasm between 'science' and the studies concerned with human society by facilitating the utterance of the current shibboleth of 'evolution.' But it is now becoming apparent that some of these generalisations were of the kind that the academic slang of the English Cambridge calls 'hasty.' They are now being, of necessity, either abandoned or profoundly modified; but meantime they have done a world of mischief. Men have, consciously or unconsciously, gone out for more than a generation to seek new illustrations for conclusions already assumed; they have often had eyes only for what, consciously or unconsciously, they wanted to see; and it has not been altogether a gain that has given us, in the place of the plodding and unspeculative scholar, the brilliant and pseudo-scientific essayist.

One amusing, were it not irritating, result of the recent confidence in certain results of the comparative method we are reminded of by Mr. Baden-Powell's welcome book on India. This is the way in which, as soon as a generalisation

[1] [*The Indian Village Community* . . . chiefly on the basis of the Revenue-Settlement Records and District Manuals. by B. H. Baden-Powell, M.A., C.I.E. (1896.) Reviewed in the *Nation*, October 7, 1897.]

covering all the peoples of the earth, or perhaps only the 'Aryan' peoples, begins to be called in question in its application to one particular people, there is a tendency to overbear criticism by an appeal to what it is alleged has been proved elsewhere. That, in apparently similar sequences of phenomena, a gap in one series should be provisionally supplied from another; that language which is obscure in the documents of one people should be interpreted by its significance (when it is clearly the same formulas that appear) in the documents of another—this is all very proper. But, to be of any value, the appeal should be from the dubious to the certain; when it is from the dubious to the equally dubious, it is only waste of time. Yet there has been something like this in some of the recent discussions concerning the origin of property in land. It was taught pretty generally until quite recently that all peoples, or at any rate all Aryan peoples, had gone through a stage in which the 'ownership' of the soil was vested in a village community. This idea was probably of German origin, and originally applied to Germany only. Then the generalisation was extended to England and, about the same time, to the vast area of Hindustan. A decade or so of popularisation followed. When by-and-by the critical process began, and doubts were raised as to whether the proposition was true in its bearing upon England, nothing was more natural than to refer the inquirer to the example of Germany. Was it its truth as to Germany that was next called in question, the sceptic could be referred to India. And it was not long before in India itself the critics of the theory there were referred back—by those, of course, who had not followed the course of the discussion in Europe—to what was still regarded as ascertained fact with regard to Germany. So that actually four years after the appearance of his own magnificent work, 'The Land Systems of British India,'[1] which ought to have placed the whole discus-

[1] [A *précis* of the main results of this book, in relation to the question at issue, was attempted by the present writer in the *Political Science Quarterly*, for March 1894, under the title of *The Village in India*.]

sion on a new footing, Mr. Baden-Powell is obliged to recognise that some of his readers will 'be disposed to regard the Indian case as necessarily concluded by a general verdict on the European evidence as to archaic common ownership of land;' and it is with the air of one who asks a favour that he 'submits that, under the circumstances of doubt that exist as to the European phenomena, the Indian case may with advantage be dealt with on its own merits.' [1]

For more than twenty years almost all those who in Europe or America have had occasion, in the course of their study of the history of institutions, to pay any attention to the Indian village, have had recourse to Sir Henry Maine's 'Village Communities in the East and West;' while observers in India itself, called upon, in the course of their official duty, to draw up an account of conditions immediately before them, have been apt to see them through the spectacles of the same book. But Maine's work owed much of its authority to the reputation gained by its predecessor, 'Ancient Law,' to which it is in truth far inferior; his own range of observation had been curiously limited; and since his time there has been a vast accumulation of fresh evidence in the way of government gazetteers and Settlement records, which makes it absolutely impossible any longer to be satisfied with 'the abstract and unified conception of the village' suggested by his writings. Mr. Baden-Powell has done us the great service, in the substantial volume closely packed with matter now before us, to bring all this material together. He attempts, and that with no small success, to disentangle its main results and dovetail them into one another, with a perception of their value which is the result at once of his own Indian experience and of his acquaintance with recent English discussion.

By far the larger part of the volume is taken up with an exposition of existing conditions of land tenure and land cultivation, and of the geographical and ethnological considerations which have to be taken into account. He points

[1] P. 5.

out that there are two very different forms of village-tenure at present in existence. In the one, known as the *Raiyatwari* village, the land owners are themselves cultivators, and own their land each in severalty; so that 'the group of holdings in no sense forms a proprietary unit.' This form is characteristic of more than two-thirds of India. In the other, called by the author the *joint* or *shared* village, there is something which may in a sense be called a common ownership. But this common ownership is that of a 'landlord estate'—'the growth of some individual over-lordship, or some settlement of conquering clans or expansion of families with their own notions of equal rights' among themselves 'and of superiority to inferior races,' which latter have usually been allowed to remain on the soil as rent-paying cultivators. He then shows that the Raiyatwari form prevails in those parts of India which have been least affected by invasion. Finally, after an elaborate examination of the remnants of tribal organisation still to be found in the Punjaub and other provinces, he sets forth tentatively his own conclusions. These are that 'the right to land grows out of two ideas; one being that a special claim arises to any object, or to a plot of land, by virtue of the labour and skill expended in making it useful or profitable; the other, that a claim arises from conquest or superior might.' [1] Of these the first, if we are to call anything 'primitive,' would seem best to deserve that title. All the evidence of early law and of the actual practice of 'aboriginal' races leads to the conclusion that 'the early tribesman, under sanction of custom, appropriated his field or his share of the tribal land, as he would appropriate a tree to make a canoe or a plough.' This claim or appropriation was perfectly compatible with the existence of a certain tribal control, or better (for it was rather a division of a tribe that held together than a tribe itself) of a certain control by the *clan*, both as against those within and those without. Neither the vague sense of clan-right nor the stronger sense of individual appropriation can be termed 'property' without

[1] P. 400.

creating misapprehensions. Left to itself, however, the development ran steadily in the direction of what we can call individual property, as seen to-day in the Raiyatwari village; unless above the body of original owning-cultivators was imposed, by some one of the score of ways in which such things took place in India, a landlord or group of landlords claiming superiority of race. And in that case a body of non-cultivating joint-proprietors might make its appearance, usually as the result of certain customs regarding *family* property. In no case does the self-governing village group of cultivating-owners of Maine's hypothesis make its appearance as a distinct stage in agrarian history.

The discussion cannot be regarded as closed. We are still only at the beginning of our analysis of the tribe and the clan; and the lesson of past controversies is that we should not be in a hurry to suppose we know just what 'tribal conditions' were or are. In the overwhelming mass of particulars brought together by Mr. Baden-Powell from provinces so far apart as Mysore and Cashmir, Assam and Sindh, there is abundant opportunity for differences of interpretation. It is perhaps ungrateful to say that there is still room for a statement from Mr. Baden-Powell's pen of the larger results of his studies, set forth in untechnical language, for the benefit of the general reader.[1] His volumes are fruitful in instruction to all who will take a little trouble; still, they present a severe aspect. But nothing can lessen our admiration for his learning, his thoroughness, his caution, and his intellectual candour. The book is a very considerable achievement.

[1] [Mr. Baden-Powell has since prepared such a brief statement in his *Origin and Growth of Village Communities in India* (Social Science Series) 1899.]

PROFESSOR WIGMORE ON LAND TENURE IN JAPAN[1]

One gets up from the reading of these *Notes* with a quite uncanny feeling. We had known in a vague sort of way that there had been what was loosely called a 'feudal system' in Japan; and M. de Laveleye and other writers had prepared us for finding something that could be brought under the equally vague designation of a 'village community.' But we were certainly not prepared to find that in most essential points mediæval society in Japan was the exact counterpart of that in Europe; that the development was apparently parallel not only in character but also in time; and that Japanese scholars are confronted by precisely the same historical problems as their western *confrères*. It is as startling as if we had come upon our 'doubles.'

Dr. Simmons was a distinguished American physician, who lived some twenty-five years in Japan, and died in 1889. His profession gave him abundant opportunities for observing the daily life of the people, both before and after the 'abolition of feudalism.' Towards the end of his life he began to make manuscript collections of notes on social institutions especially in the feudal period—notes based on personal observation, on the information of his Japanese friends, and on two collections of provincial regulations and agricultural customs dating from the end of last century. The date and

[1] [*Notes on Land Tenure and Local Institutions in Old Japan.* Edited from posthumous papers of Dr. D. B. Simmons by John H. Wigmore. Published by the Asiatic Society of Japan (1890). Reviewed in the *Political Science Quarterly*, March 1892.]

character of these works, it may be noticed in passing, at once remind the English student of the reports to the Board of Agriculture. But Dr. Simmons does not seem to have been in a position to give any very minute or critical attention to the mass of documentary material bearing on land tenure; and, with the exception of the writings of Sir Henry Maine, he appears to have been unacquainted with the European literature on the subject. Accordingly his notes, while of the utmost value as the first serious attempt to deal with the history of Japanese local institutions, and as stating the actual practice among the people in recent times, can hardly be regarded as conclusive. This is pointed out by the editor, Mr. Wigmore, who clearly combines with a wider mastery of Japanese 'sources,' a very adequate knowledge of modern English and German discussions concerning the history of European land tenure.

The main points of resemblance between mediæval Japan and mediæval Europe may be briefly enumerated. There was the same distinction between royal domain and the estates of the great nobles; the cultivated country was divided into *shōyen*, which may fairly be translated 'manors;' the tenants upon these manors were in a condition of more or less servile dependence upon their lords; they cultivated scattered patches in open fields; they enjoyed the use of common meadows and forests; they were bound to perform labour services, which at a later period were commuted for payments in money or kind; there appeared among them social gradations which may be roughly compared to those of free tenants, villeins, and cottars; and they were under the supervision of officers who were very much like the steward, bailiff, and reeve. It has escaped Mr. Wigmore's notice that the dual position of the *nanushi*, and his obscure relations to the *toshiyori*,[1] reproduce precisely the difficulty which confronts the English student in the shifting use of the terms reeve and bailiff.[2] Indeed, M. Fustel de Coulanges has pointed out a like difficulty in the case of the *villicus*, the *procurator*, and the *actor* on Roman estates much earlier.

[1] P. 169; cf. p. 109, n. [2] [Cf. *supra*, p. 57.]

This, however, is but a small suggestion ; a far more considerable matter, where Mr. Wigmore has for once missed his opportunity, is the *gonin-gumi* system. It is thus described by Dr. Simmons :

> The chief feature in the arrangement of the *mura* (or village) was this *gonin-gumi* system. Every five families were united in a *kumi* or company. [Mr. Wigmore adds in a note that 'the *kumi* often consisted of six householders,' and that in a certain territory 'some *kumi* held more than ten householders']. . . . One of the number was selected by themselves as headman or seal bearer. . . . He was also called *kumi-oya* (company-parent) or *ban-gashira* (watch-chief), and was required to be a land owner. . . . As a rule the *kumi* as a body was responsible for the defaults of its members, and even of their wives, children, and servants. The carelessness or evil-doing of a single member meant full responsibility on the part of the other four also. If, however, any member persistently failed to conduct himself properly, he could be reported by his fellow-members to the *mura* officials.[1]

Mr. Wigmore discusses the theory of certain Japanese writers that this system had originally a military purpose, and was borrowed from China or Corea, but only to reject the idea, and to observe that even at an early date the *kumi* 'was regarded in the light of an administrative device for securing order and good conduct.' But he does not notice that in its general features it was apparently very much the same thing as the English frankpledge. The frankpledge is an institution of whose practical working we are still waiting an explanation. Recent English constitutional historians seem to fight shy of it ; perhaps they may find a clue by 'surveying mankind from China' to Japan.

The mass of the present population of Japan is, beyond all controversy, descended from the servile population of the middle ages. But the question of the origin of mediæval serfdom is in the same position in Japan as in Europe. Fortunately the pleasing vision of an original free village community has not made its appearance to divert scholars to

[1] P. 97.

a mistaken path: they realise that the task before historical science just now is to settle the relations between two phenomena, of the early existence of which there can be no manner of doubt, viz. the tribe and serfdom. Mr. Wigmore himself speaks with an uncertain sound, or rather speaks with two irreconcilable sounds. In one place [1] he speaks of the manorial system as 'a later development of the ninth and tenth centuries'—influenced here probably by the German constitutionalists; and he tries to trace the fall of a supposed class of 'smaller freemen,' 'the body of the people,' [2] into subjection by means of processes like commendation. Elsewhere, however,[3] he compliments Dr. Simmons for laying emphasis on the

> two historical truths: (1) that the serfs of early times represented the conquered peoples (whether aborigines, strictly speaking, or only earlier immigrants); (2) that the mass of the common people of to-day represent the descendants of the early serfs.

The truth is that, as Mr. Wigmore recognises, there are not yet sufficient data at command to justify an opinion; and until they have been brought together, European theories are rather a hindrance than a help. It is possible that the solution will be found in the direction suggested by Dr. Florenz's essay on *Altjapanische Culturzustände*, the substance of which is translated in the appendix. Dr. Florenz declares that the Japanese nation was originally made up of a number of '*uji* or clans, that is, patriarchal families including a number of persons related by blood,' and adds: 'These *uji* had in their corporate capacity their own landed possessions and *their own serf population*.' If this is true, the question to consider is that of the relative numbers of the serf dependents and the fully free tribesmen—a subject upon which some light may be thrown by the observation of races which are still, in our own day, in the tribal stage.

I have said that Japanese scholars are hardly troubling themselves with any free-village-community theory: it may be that the wave of anti-mark reaction has reached them before

[1] Pp. 157 *et seq.* [2] P. 158. [3] P. 132 n.

they have been carried away by the mark current. But for European and American scholars who are still in doubt as to whether they should abandon the mark hypothesis, there is one of Mr. Wigmore's pages that ought to be of interest. One of the most suggestive results of recent inquiry is that many a practice which at first sight points clearly to an original communal ownership of land is shown to have resulted from the pressure of the government. Thus M. Kovalevsky, in his recent work on 'Modern Customs and Ancient Laws of Russia,' assures us that the custom of periodical redivision of the lands of the *mir* is not a survival from ancient usage and a transitional stage from common to individual ownership, as Maine supposed, but the outcome of Peter the Great's measures of taxation. And now Mr. Wigmore calls attention to similar dangers of misconstruction in Japanese conditions, and points the moral for Europe.

> The facts of Japanese village life . . . show how many communal customs, apparently purely local in origin, were the result of superimposed laws. It is possible that the numerous instances of this sort may be suggestive and helpful in the examination of Western village communities. Take, for example, the cultivation of the land of a deserting farmer by his *kumi* or by the village. Nothing could at first sight point more clearly to a certain community of property, a corporate holding of land by the village. But on further examination this custom proves to have been commanded by the government with the object of preventing a diminution of revenue. Take, again, the necessity of obtaining the seal of the *nanushi* for all transfer of land, in mortgage or absolutely. This, we suspect at once, is analogous to the necessity of the consent of the kinsmen or villagers to the alienation of land noticeable in early communities. Yet in Japan a law of the Shōgunate required it; and even though we may yet discover that the Shōgunate merely sanctioned an existing custom (which is unlikely), we have nevertheless seen the necessity for caution, and for a thorough examination of all the apparently local customs having a communal character.[1]

[1] P. 171.

PROFESSOR HILDEBRAND'S LAW AND CUSTOM[1]

Whether it was a conscious impulse of filial piety which prompted the choice of Professor Hildebrand's subject, we are not told. But it is certainly appropriate that the son of that Bruno Hildebrand who, fifty years ago, pointed to 'the movement of historical evolution' as the object of the economist's inquiry, should now make an attempt, with the aid of all that anthropology and comparative jurisprudence have given us in the interval, actually to sketch the outlines of that evolution, and to show its dependence upon fundamental economic conditions. It is an attempt which, from the novelty of its method and the distinctness of its challenge, is sure to attract wide attention.

A good deal is being said nowadays about 'the materialistic conception of history.' Many worthy persons are rejoicing or lamenting, as the case may be, over the disappearance of idealism. The emotion is premature. Before we trouble to ask whether an economic explanation of certain events is adequate, it is commonly worth while to inquire whether the alleged economic phenomena themselves really existed as described. We may thus in most cases relieve ourselves from attacking the larger question; for it may be doubted whether any 'materialistic conception' of history has ever condescended to particulars without exciting the derision of the specialist.[2]

[1 *Recht und Sitte auf den verschiedenen wirtschaftlichen Kulturstufen*, by Dr. Richard Hildebrand. Erster Teil (1896). Reviewed in the *Political Science Quarterly*, September 1898.]

[2] [Cf. *supra*, p. 27.]

We are, therefore, somewhat taken aback at first by the boldness and sweeping character of Professor Hildebrand's programme:

> At the bottom of the following investigations lies the problem of a history of the general evolution of law and custom. This problem can only be solved when we cease to be content with merely comparing the separate phenomena of different peoples and periods, and try to arrange or group the materials according to the economic stages to which they belong. For to determine the connection and genetic sequence of the several facts, and to be able to say that this law or custom is older or more primitive than that—for this we clearly need a criterion which shall rise above and be independent of chronology. Such a criterion is alone furnished by the stage of economic culture; for this alone shows us a movement of evolution everywhere in its main features alike, or ever moving in the same direction. The reason is that population is always more or less increasing, and that, of all the interests which dominate active life, the economic, from the very nature of things, are always the most mighty.

This is a large claim, about which a good deal could be said: when Professor Hildebrand comes down to more recent times, he will not find it one easy to substantiate. But if any one has a right to indulge in such preliminary assertions, it is he who sets about his task in the businesslike manner of our author. To every paragraph or so of the text is attached a catena of authorities, quoted most of them in full and drawn from a remarkably wide range of anthropological literature; and these are not buried in footnotes, but are given all the advantages of decent type and spacing. I know of no book in which it is easier at every point to follow the author's reasoning.

The work falls into two parts. In the first fifty-six pages we follow the course of social evolution through the hunting and pastoral stages down to the beginning of agricultural life; and within this brief compass a dozen burning questions are sensibly and sufficiently dealt with. He shows, for instance, that in the lowest stages men do not live together in hordes, but in more or less isolated

families; that 'horde-marriage' or 'promiscuity' is then unknown; that polyandry, when it makes its appearance at a higher stage, is exceptional and the outcome of individual poverty; and that then it does not bring with it the consequences imagined by enthusiastic exponents of matriarchy. He goes on to point out, as perhaps no previous writer has done, what are the economic, and therefore the institutional, differences between the hunting and the pastoral life; and he explains the origin, in the latter stage, alike of serfdom and of chieftainship.

When we have reached this point, we are surprised to find that the rest of the book is given up to a discussion of the condition of the Germans at the time of Caesar and Tacitus, introduced with the remark that they were still in the stage of half-nomadic life just described. We are reminded of Fielding's parson, who by Christianity meant Protestantism, and by Protestantism the religion of the Church of England. With the whole of mankind and of history to choose from, we had hoped to ward off the *agri pro numero cultorum* a little longer. Still, our author does but follow the wonted course of German investigation. No one can read the early chapters of Mommsen without suspecting that he would hardly have written as he has about Rome, if contemporary scholars had not been confidently expatiating on the early German *Dorfgenossenschaft*. So now, if we can only get some more satisfactory notions about the early Germans, we may expect in time to reach the Romans and Greeks.

In a short review it is impossible to set forth as it deserves—still less to criticise—Professor Hildebrand's theory of the constitution of early German society. It is far removed from the current Germanist doctrine as presented, e.g., by Waitz and Brunner. Professor Hildebrand is, so far as I know, the first notable German scholar who has cut himself altogether loose from the dominant teaching. Accordingly, it is natural to compare him with M. Fustel de Coulanges. With M. Fustel's work he is well acquainted; but he makes use of it, as it would seem, with perfect

independence, utilising an argument here and there, or rejecting this or that proposition, as he sees fit. And though the two writers agree very largely in their negative polemic, they differ widely in the positive indications they give us. M. Fustel took for his point of departure the Provincial *villa*; Dr. Hildebrand takes the *Kirghises* of modern Asia. The method of the former is archæological; that of the latter anthropological. M. Fustel's strength was undoubtedly in destructive criticism; and some of us who took the keenest delight in his operations must at the end have been somewhat troubled by the consciousness of a vacuum that nature abhorred. Dr. Hildebrand's present book is a good deal more promising in the way of reconstruction. That lordship, on the one side, and the 'dependence' of the cultivators of the soil, on the other, existed from the very beginning of tillage, he has at least shown to be highly probable. But much remains to be done to give complete consistency and *vraisemblance* to his exposition.

Let us add, to whet the appetite of some readers, that Professor Hildebrand has a new reading, based on an ingenious paleographical argument, to propose in the place of *in vices*; that he accepts M. Fustel's explanation of *Lex Salica, tit.* 45; and that he has heard the roll of Professor Meitzen's big guns (*Siedelung und Agrarwesen*) without blenching.

ON AN ALLEGED ENGLISH FASHION

Professor Maitland has recently written as follows in his 'Domesday Book and Beyond' (1897).[1]

It was the fashion in England, some years ago, that those who spoke of village communities should say something of 'the Germanic mark.' What they said seemed often to imply that the German village community was a mark community. This was a mistake. It seems indeed that there were parts of Germany in which the word 'mark' was loosely used; but the true *Markgenossenschaft* was utterly different from the *Dorfgenossenschaft*, and the lands with which it dealt were just those lands which belonged to no village. In the country which saw the Germans becoming an agricultural race, the lands belonging to the villages were but oases in a wild territory. In later days some large piece of this territory is found to be under the control of a 'mark-community,' whose members are dwelling here and there in many different villages and exercise rights over the land (for the more part it is forest-land) that belongs to no village, but constitutes the mark. Traces of what might have become 'the mark system' may perhaps be found in England; but not where they have been usually sought. We read of a tract in Suffolk which is common pasture for the whole hundred of Coleness. Instances in which a piece of land is common pasture for many vills were by no means uncommon in the thirteenth century.

For this description of 'the true Markgenossenschaft,' Professor Maitland does indeed refer to Dr. Meitzen's 'Agrarwesen und Siedelung,' i. 122-60;[2] but the ordinary

[1] P. 354.

[2] Cf. *supra*, p. 121.

reader would scarcely gather that this was a use of language peculiar to Dr. Meitzen. And I have known a reader of quite exceptional intelligence and historical knowledge to take away the impression that the English writers referred to must have been inexcusably careless not to have discovered what in Germany was a matter of common knowledge. But if we reflect that this criticism affects not only Sir Henry Maine,[1] but also that most careful of writers, Dr. Stubbs himself,[2] it may perhaps occur to us that the 'fashion' can hardly be quite so summarily disposed of.

It would be well worth while for some young scholar, in search of a subject for his doctor's dissertation, to trace, simply as a piece of literary history, the varying shapes which have been taken by the mark doctrine in Germany during the present century. Meanwhile it may be useful to call attention to one or two fairly evident points in its history. I shall use the editions of the several books referred to which happen to be at hand, disregarding for the time what the future historiographer will need carefully to note, the exact date of each footnote or modification of the text.

Omitting, then, the earlier writers, it will be sufficient for us to begin with Georg von Maurer, 'the great authority' on this subject, as Dr. Stubbs calls him. In his celebrated 'Einleitung zur Geschichte der Mark-, Hof-, Dorf- und Stadtverfassung' (1854), von Maurer maintained, as against Grimm, that the primitive *Mark* contained more than mere woodland; it originally included arable land, and, indeed, was synonymous with '*Dorfschaft oder Dorfmark*.'[3] The early marks were often very large,[4] but they had a village for their centre of activity,[5] and he elaborately describes 'the oldest village settlements or primitive villages' (*Urdörfer*), with their *Feldmarken*, and their carefully regulated rights to wood and pasture.[6] After a time this primitive mark system broke up, owing to a number of causes, chief

[1] *Village Communities in the East and West* (1871); see especially pp. 78–82.
[2] See *Constitutional History*, i. 53–58.
[3] *Einleitung*, p. 42.
[4] *Ibid.* p. 46.
[5] *Ibid.* p. 18.
[6] *Ibid.* pp. 18–171.

among them the settlement of daughter villages on the territory before unoccupied, and the growth of seigneuries:[1] from the partition of the original large mark arose in very many instances the *marks* of the later villages and towns, '*Dorfund Stadtmarken.*'[2] This forms the point of departure of his later 'Geschichte der Dorfverfassung in Deutschland,' (1865), where the villages of historic Germany are set forth as possessing marks, and reproducing in small the features and history of the supposed original great marks. His whole doctrine is thus summed up by himself in his Table of Contents: 'Die Dorfverfassung ist eine Dorfmarkverfassung; die Grundlage der Dorfmarkgenossenschaft ist eine Feld- und Markgemeinschaft;' and 'die Geschichte der Dorfmarken ist eine Wiederholung der Geschichte der grossen Marken.' Considering that, whether the mark was large or small, whether of primary or secondary formation, the members of a mark community usually, according to von Maurer, inhabited a village, it was surely very excusable for Mr. (afterwards Sir Robert) Morier in his Cobden Club Essay (in 'Systems of Land Tenure,' 1870) to lump all early German villages together without troubling his readers with the distinction between primitive and filial, and for Sir Henry Maine to follow him. In the exposition of Dr. Stubbs, who had evidently read his authority with care, von Maurer's two stages may be discerned by those who look for it;[3] but he also throughout identifies the primitive village group with the primitive mark, assigns it a 'constant arable surface,' and, as is well known, finds 'traces of the mark' in the Anglo-Saxon township.[4]

Von Maurer's construction of early agrarian history long remained the most generally accepted among German scholars. Three illustrations will suffice. First we will take an economist—but an economist celebrated for the width of his historical learning—the late Wilhelm Roscher. After defining the *Markgenossenschaft* as an association whose

[1] *Einleitung*, p. 174.
[2] *Ibid.* p. 201.
[3] *Constitutional History*, i. pp. 53–56.
[4] *Ibid.* pp. 89, 90.

members owned in severalty their arable land, but held their woodland and meadow as common property, and remarking that it might be composed of isolated homesteads as well as of whole villages, Roscher proceeds to identify it as a rule with a village group in these words: 'The mark belonging to a primitive village commonly split up later into several marks through the plantation of secondary (or dependent) villages ("Nebendörfer.")' [1]

Next, we will turn to a legal historian—and that the writer of the highest repute in Germany in his field during the last quarter of the century, namely Professor Brunner. Dr. Brunner identifies the earliest *Markgenossenschaft* with the settlement of a clan, *Sippschaft*, and supposes that it was either conterminous with a village settlement, or, when it was large, contained many village settlements. But in this latter case he declares 'smaller village marks must in course of time have separated themselves from the great mark.' [2]

Our third example shall be the most popular of recent German historians, Professor Karl Lamprecht, whose earlier works are commonly supposed to have given him a right to speak with authority on early mediæval land-tenure. It will be found that he also presents substantially the same version of the development, though he makes the stages three instead of two. According to Dr. Lamprecht—taking the idea perhaps from Thudicum—the first *Markgenossenschaft* was the *Hundertschaft*, the 'hundred.' Then, with the growth of the idea of kinship through males, the several clans (*Sippen*) belonging to the hundred settled down within the earlier economic organisation, upon the mark assigned to them, each with its arable lands, pastures, and woods, and thus constituted 'the exactest copy of the mark constitution of the hundred;' each such *Sippe* being settled 'sometimes in a single village, sometimes in many hamlets, sometimes in isolated farmsteads.' And then again these *Sippenmarkgemeinden* in many places broke up into new villages, which reproduced in small the features of the old system, and 'con-

[1] *Nationalökonomik des Ackerbaues* (12th ed. 1888), § 72.

[2] *Deutsche Rechtsgeschichte* (1887), i. 60.

stituted the local communes (*Ortsgemeinde*) with Germanic-mark-community rights' of the Middle Ages.[1] In a somewhat later handling of the subject,[2] Dr. Lamprecht takes this third stage, described as that of the *markgenossenschaftender Dörfer* as the starting point for the subsequent development of rural life in Germany.

This may suffice for what may be called the von Maurer tradition with its amplifications. But this has not been alone in the field; among von Maurer's contemporaries was a scholar of a far wider range of interests and influence, who could utilise his work without being dominated by it, the distinguished constitutional historian Dr. Waitz. It will be sufficient to remind the English reader how thickly 'Waitz, D.V.G.' is sprinkled over the first half of the Bishop of Oxford's first volume. Now, Waitz, describing German conditions in the earliest times, those of Caesar and Tacitus, lays the greatest possible stress on village life as the usual and normal thing. He assigns to these villages arable fields, pasture and woodland; explains how the word *mark* means primarily the land remaining undivided, and from that comes to mean the whole territory of the village; and remarks that for the community so constituted the term *Markgenossenschaft* has become customary. But in this matter, he says, there was no dead uniformity. There were districts where the community in wood and pasture rights was not limited to the members of a single village. This may be due to the later plantation of additional villages, or several villages may, from the first, have had a common mark; and in some cases the community may have extended over districts which were large enough to be called *hundreds* in later times. Such instances cannot be treated as 'old village-marks,' as von Maurer would have them. Nor does Waitz follow him in making a general second stage of development out of the cases where a number of villages grew ou of a large mark. 'The impulse towards community must be regarded as taking different forms under different

[1] *Deutsche Geschichte* (1891), i. 142–144.

[2] In *Zeitschrift für Sozial- und Wirthschaftsgeschichte* (1893), i. 221.

circumstances; but'—and here is the notable pronouncement—'most commonly, especially in northern Germany, it realises itself by means of the settlement in villages.'[1]

One last quotation. In the same year as this last edition of Waitz appeared, the veteran *Agrarhistoriker*, Professor Georg Hanssen, republished an essay written forty-five years before. And there, at the opening of his 'Agrarhistorische Abhandlungen' (1880), the mark doctrine is presented to the rising generation of historical and economic students in the simplest and clearest of forms. 'The mark-constitution is called, from its most important practical feature, the common (arable) field system (*Feldgemeinschaft*); the common-field system created the villages; and the mark constitution arose from the joint occupation of the arable mark by an associated group of heads of families.'

My purpose in making these quotations, let me repeat, is not in the least to show that *mark* in any sense *ought* to be connected with the village, but simply to prove that, as a matter of fact, it has been so connected by a long line of German scholars of high reputation and influence; so that 'the fashion' among English writers of doing likewise (whether in upholding or in criticising the mark doctrine) has been a simple copy of a German fashion. Since the appearance of M. Fustel de Coulanges' detailed examination of von Maurer's alleged authorities[2] the mark doctrine, whether as formulated by von Maurer or by Waitz, ought to be too dead to be any longer attacked. Professor Meitzen's attempt to confine the meaning of *mark* to something very different from what earlier writers had in mind, though not without its difficulties,[3] represents a real advance. He will confer a greater service upon historical science by placing before us the facts as to *marks*, in this sense of his, with places, dates, and documents definitely set down, than by trying to fit his conception of them into a scheme of evolution for which there is at present no visible evidence.

[1] *Deutsche Verfassungsgeschichte* (3rd ed. 1880), i. 108–132.

[2] *Origin of Property in Land* (Eng. trans. 1891), pp. 3–72.

[3] See *supra*, p. 121.

MEDIÆVAL URBAN

THE BEGINNINGS OF TOWN LIFE IN THE MIDDLE AGES[1]

I

The economist who seeks to learn something of the social history of the past is not seldom in an embarrassing situation. His first impulse, of course, is to turn to the professed historian for the information he craves; and, more particularly, when the matter is of a constitutional or legal character, to the historian of law. But, when he does so, he is only too likely to find one of two things. Either the information he receives, while it has a grammatical consistency, yet leaves him quite in the dark as to the daily life of the people concerned—he asks for a picture and receives a formula; or, instead of one answer to his inquiry, he is given several, all from eminent authorities and absolutely irreconcilable. Then, probably, he gives up the quest, and falls back on some neat little *a priori* theory of his own as to what the course of economic evolution *must have been*. If he does not, but makes up his mind to go to the original sources for himself, he will be fortunate if he escapes an

[1] [The *Quarterly Journal of Economics*, July 1896.]

occasional sly thrust from historian and lawyer for venturing beyond his last. His lot, therefore, is not altogether a happy one.

Reflections such as these will have occurred to economists who have looked of late into the subject of mediæval town history. That the towns of the Middle Ages were the homes, and the only homes, of trade and manufactures; that their rise meant the appearance of forces other than, and in large measure hostile to, those of agrarian feudalism; that their prosperity contributed more than any other cause to the creation of the modern State and the modern conception of citizenship—all these are causes enough why their history should be of interest. What mediæval town life was, when fully developed, let us say in the fifteenth century, is very evident. But how did it begin? Whence did the towns acquire their characteristic constitution, their characteristic population? And be it remarked that these two latter questions cannot, save provisionally, be kept apart. Constitutions—working constitutions, that is, not paper ones—imply corresponding social conditions. Social conditions vitally affect constitutions. The problem is one which includes constitution *and* conditions; as Hüllmann long ago realised when he took '*Städtewesen*' for his theme.[1]

Yet it needs but a glance into contemporary historical literature to discover that there is at present hardly any subject that occasions more animated controversy or on which competent scholars are still so far from agreement. The purpose of this article is to set forth, as impartially as may be, the present state of the discussion. Some observations will perhaps suggest themselves in the course of the exposition; but it is neither my intention to add one more to the many theories that are before the public, nor to judge them all from the standpoint of any one of the rival systems.

[1] Karl Dietrich Hüllmann, *Städtewesen des Mittelalters*, 4 vols. (Bonn, 1826–30). The example has in these later days been followed by Rudolph Sohm (*Die Entstehung des deutschen Städtewesens*, Leipzig, 1890), who observes that 'die wirtschaftliche Entwickelung steht mit der rechtlichen in untrennbarer Wechselbeziehung.'

The reader may be spared any long account of the older 'literature' of the subject; partly because I can claim but an imperfect acquaintance with it, partly because an admirably clear and fascinating statement has been recently given by M. Pirenne, in the first of the series of articles from his pen to which I propose to call attention. It may be said, in brief, that among German scholars, and with reference especially to German towns—though with a side glance now and again at other countries—four views as to the origin of the municipal constitution have long struggled for the mastery. There have been those who assigned primary importance to the *free* element in the early urban population. Thus Arnold, in 1854,[1] explained the constitutional history of the 'free cities' of the Rhine by supposing the gradual amalgamation of the unfree households of the Rhenish bishops, over which they exercised a domanial (or manorial) jurisdiction, with a free town population, subject only to the jurisdiction of the public courts. These latter fell, he maintained, under the control of the bishops in consequence of the transfer to them by imperial grants of the right of holding the public courts—the so-called 'Ottonian privileges.' The result, however, of this association of dissimilar elements under one headship was that the free ultimately predominated over the servile; and, by the time the different classes had grown into a united burgess-body, the manorial jurisdiction had altogether given way to that of the public courts. Others, on the contrary, have seen everywhere a spontaneous development out of *servile* conditions. Thus Nitzsch, in 1859,[2] pictured town life as beginning in great seigneurial establishments, with hundreds of dependents (*ministeriales*), serving their lords in various capacities, who gradually threw aside the restrictions by which they were encumbered, and so converted manorial institutions into municipal ones. There were, in the third place, those, though few in number,

[1] Wilhelm Arnold, *Verfassungsgeschichte der deutschen Freistädte*, 2 vols. (Gotha).

[2] Karl Wilhelm Nitzsch, *Ministerialität und Bürgerthum im 11. und 12. Jahrhundert* (Leipzig). [On Nitzsch, cf. *infra*, p. 242.]

who followed von Maurer from 1854 onward,[1] in regarding the mediæval town as but an outgrowth of an original free *mark*-community. And, finally, there were some who laid all emphasis on free *association* as the real source of the later municipal system. With the shape first given to this idea by Wilda in 1831,[2] who traced the civic constitution to the formation of a 'gild' *eo nomine*, none remained altogether content. But the wider formulation of Gierke,[3] who insisted only on some sort of conscious combination the one with the other of individuals and groups previously unconnected save by propinquity, commended itself to not a few; especially as Gierke thought he could still leave room for the action of most of the other forces dwelt upon by previous writers, and so was able to give his version of town history an all-inclusive air which many found attractive. Thus Wilhelm Roscher, who, though not an original investigator of things mediæval, had a very wide acquaintance with the modern literature of the subject, wrote in 1881:—

> Primitive field- and mark-communities, the seigneurial organisation (*Hofverfassung*) of the dependents of great ecclesiastical and secular lords, the constitution of the public courts with their *Schöffen*—all these were roots of the town system. From the first two came its communal side: the third gave the town its public character. The new and creative force, however, which produced the amalgamation of all these elements, was the principle of free union (*Einung*) for permitted objects. . . . Wherever, within the same walls, a royal or episcopal subject-community (*Hofgemeinde*) dwelt side by side with the remnant of a free community, and the most important members of both were united in one body by the additional bond of a free union, there first could

[1] Georg von Maurer's *Einleitung zur Geschichte der Mark-, Hof-, Dorf- und Stadtverfassung* (Erlangen), states in brief the conclusions for town history which he supported later by an overwhelming mass of citations in his *Geschichte der Städteverfassung in Deutschland*, 4 vols. (Erlangen, 1869–71).

[2] W. E. Wilda, *Das Gildenwesen im Mittelalter* (Halle).

[3] Otto Gierke, *Das deutsche Genossenschaftsrecht*, 3 vols. (Berlin, 1868–81).

a burgess-body come into existence, such as was the result of the creation of a common law for all the town's inhabitants.

And, in a note, after mentioning von Maurer, Nitzsch, and Arnold, Roscher added, 'The merit of having united these various one-sided theories in an accurate view of the whole belongs to Gierke.'[1]

Roscher was apparently unaware that the school of Wilda and Gierke had just found an ally in an unexpected quarter, in the person of Nitzsch himself. In a couple of papers read before the Berlin Academy in 1879 and 1880,[2] just before his death, Nitzsch had pictured every Low-German town as dominated, during the period of struggle for municipal self-government, by a great merchant gild, containing, at first, all who had any occasion to buy or sell. Nitzsch died before he had explained the relation which existed in his own mind between his earlier and his later writings. He probably did not suppose himself to be surrendering any part of his former teaching: the comparatively new towns of the north might well have had a different history from that of the older cities on the Rhine. But his example—commended as it was by his great reputation, especially among economists, who found something peculiarly congenial in his method of approaching history—very naturally led to the discovery of gilds in all directions, and a fresh readiness to connect them with the beginnings of municipal government.

Meanwhile a certain affability has held back French historical scholars—as it holds back French scholars in other fields of study—from that sharp formulation of antitheses that pleases their German confrères; and partly for this reason, partly because of the smaller number of historical specialists, there has been nothing like the same diversity of opinion among them as to the early history of French towns. Putting on one side the theory of the survival of Roman

[1] *Nationalökonomik des Handels und Gewerbfleisses*, 6th ed., § 3, pp. 12 and 14.

[2] *Ueber die niederdeutschen Genossenschaften des 12. und 13. Jahrhunderten*, and *Ueber niederdeutsche Kaufgilden*.

municipal institutions, which—although it had a great attraction for the earlier writers and has even lately been maintained by so considerable a scholar as Glasson [1]—seems to have scarcely affected the view taken of the Middle Ages proper, French historical speculation has continued to follow the direction given it some sixty years ago by Thierry. This, at any rate, is the case so far as the *communes* of northern France are concerned; and these have, from the first, drawn to themselves the special attention of French investigators. Thierry's view may be described as a French counterpart to that of Wilda; and it has undergone modifications not unlike those which Wilda's teaching has received at the hands of Gierke. The word 'gild' has dropped into the background. It is realised, also, that the communal movement was hardly so 'democratic' as was once supposed, and that it made up by no means the whole of the town history even of northern France. Nevertheless, a view substantially similar to that of Thierry has been maintained quite lately by Giry, the author of two most important monographs (on the history of Saint-Omer and Saint-Quentin [2]), and the inspirer of many more, and by Luchaire, the most eminent of the historians of the Capetian centuries. The extreme caution of M. Luchaire in certain directions, as exemplified in his 'Communes Françaises' (1890), adds but the more weight to his judgment. The question of 'origins' he regards as 'insoluble.' [3] There is a complete hiatus in our documents, apparently never to be filled up, between the seventh century and the eleventh. Nevertheless, he has no doubt that 'the creative element of the commune,' that which produced the mediæval town, with its distinctive government and separate jurisdiction, out of 'collections of traders and artisans, all of more or less servile condition,' [4] was 'the association of inhabitants formed under the guaran-

[1] See hereon M. Flach's chapter on 'Les Théories Générales' in his *Origines de l'Ancienne France*, ii. 215 and 216, *n.* 3.

[2] *Histoire de la Ville de Saint-Omer* (Paris, 1877) and *Étude sur les Origines de la Commune de Saint-Quentin* (Saint-Quentin, 1887).

[3] *Communes Françaises*, p. 11. [4] *Ibid.* p. 29.

tee of a mutual oath'[1]—an association which succeeded in obtaining from the lord of the town, by violence or negotiation, the franchises it was formed to secure. He goes further: he recognises a 'community'—a sense of joint interests and the practice of acting together—'before the commune.' How this was organised, what were its relations to serfdom, whether the common lands of such communities were *owned*, or merely *used*, in common—again he will not venture to say. Here reigns an obscurity 'which will doubtless remain impenetrable.'[2] Nevertheless, he believes that among the members of this body, slowly becoming aware of its community of interests, there often grew up *partial* societies, mercantile and religious gilds and fraternities; and that these 'partial associations became the germ and the prototype of the general federation'[3] which constituted the commune. In some, indeed, and these important cases, 'the merchant association' was itself 'directly transformed into the municipal;' and the commune and the gild merchant were in such places for some time identical.[4]

II

There were thus, in Germany and in France, theories enough and to spare. But the period of the seventies and the eighties was, in both countries, a period of town monographs rather than of general views. The new period of animated discussion in the midst of which we now live was opened by a series of remarkable articles and pamphlets by Georg von Below (first of Königsberg and afterwards of Münster), beginning in 1887.[5] With extraordinary clearness,

[1] *Communes Françaises*, p. 26.
[2] *Ibid.* p. 38.
[3] *Ibid.* p. 26.
[4] *Ibid.* p. 32.
[5] Of these the most important are two articles 'Zur Entstehung der deutschen Stadtverfassung' in the *Historische Zeitschrift*, lviii., lix.; *Die Entstehung der deutschen Stadtgemeinde* (Düsseldorf, 1889); and *Der Ursprung der deutschen Stadtverfassung* (Düsseldorf, 1892). [For a more detailed account of von Below's writings, see *infra*, p. 219.]

vehemence, and occasional scurrility, von Below urged that the only satisfactory explanation of early German town history was, after all, to be found in the theory of von Maurer—a theory, as he remarks, now 'almost under the ban.'[1] He makes, indeed, a change of more significance than he realises in his method of formulating it. Without indicating any dissatisfaction with 'the mark theory' itself, von Below prefers to start with the village as we actually find it in the Middle Ages proper, and to leave untouched the question of the historical relation of the village to its lord.[2] Instead of a *Markgenossenschaft* he prefers to speak of a *Bauerschaft*, a peasant group, or, more commonly, of a *Landgemeinde*, a term untranslatable, but which we may render by 'rural township,' or 'rural commune' in the modern French sense of the word 'commune.' The German town-community is, he declares, the daughter of a country commune; the town magistracy and municipal organisation but developments, with amplified functions, from the old village magistracy and organisation. He grants that the town was more than the village, and he allows that it was the growth of trade which brought about the change; but he maintains that there was never any breach in the continuity of institutions, and that the later town government was a natural growth from germs present from the first in the rural township: it owed nothing fundamental to the public courts of the hundred, or to seigneurial establishments, or to mercantile gilds.

In Germany the result of von Below's appearance in the field was amusingly unexpected, and very different from what von Below himself anticipated. In 1890 came forth a little pamphlet of a hundred pages, bearing the honoured name of Rudolph Sohm,[3] which changed the whole situation. He began by attributing to von Below the merit of raising anew fundamental questions. He went further, and credited

[1] *Stadtgemeinde*, p. 1.

[2] *Ibid.* p. 3, *n.* 2; *Stadtverfassung*, p. 23, *n.* 1.

[3] *Die Entstehung des deutschen Städtewesens: eine Festschrift* (Leipzig).

him with having absolutely disproved both the seigneurial view of Nitzsch and the Ottonian-privileges view of Arnold. But on the ground thus cleared he refused to build in the manner of von Maurer. With von Below's positive views, he asserts, it is impossible to agree. On the contrary, he turns into an altogether different path, suggested by two contemporary historical essays, to which he now called particular attention. Schröder's papers on the *Weichbild* —a mediæval term for a town and its constitution, which Schröder explained as originally meaning 'town emblem,' and identified with the market-cross—had 'proved the identity of market-law and town-law, of market-court and town-court.' [1] Another scholar, Schulte, with the aid of a hitherto unprinted charter of Radolfzell of the year 1100, had demonstrated the truth of this proposition in particular cases and had further made it clear that 'town-law *grew out of* market-law.' [2] Other factors may have contributed to the result; but the decisive factor was the market with its law. 'Within the merchant class differences of birth disappeared; and out of this market-community, which knew only of differences of occupation and wealth, arose the town administration, the original model of our modern national administration.' But now what was the market-law? It was originally, and in the main, a code of heavier penalties for breach of the peace than were inflicted elsewhere. In the language of the period, it was a special 'peace.' And this special peace Sohm goes on to explain (and this is his own contribution) as constructively the peace of the king's house or fortified residence, his *Burg*. Such a peace was, we know, maintained in the king's house in Frankish times. And in after-ages, Sohm maintains, whether a place was fortified or not, the grant of *Burgrecht* or *Weichbildrecht* meant the recognition of it as a place specially subject to the king, and therefore under his special protection, the contempt of which involved peculiarly heavy penalties. Such an exceptional position necessarily involved the creation of a special tribunal; and hence the market-court.

[1] *Entstehung*, p. 14. [2] *Ibid.* p. 15.

The effect of Sohm's book has, however, not been so much to secure acceptance for this particular explanation of the *genesis* of market-law,[1] as to commend, with all the weight of his authority, the general view that it was out of market-privileges, in some way or other, that town government proceeded. In spite of the forcible arguments of von Below,[2] the *market-theory* has since been very widely welcomed, especially by jurists.

Sohm had spoken in general terms of *Kaufmannschaft* (body of merchants) and *Marktgemeinde* (market-community). It wanted but little to suggest to subsequent writers a connection between this body and the merchant-gild which had played so considerable a part in earlier discussions. But just at this time appeared the treatises of Hegel and Gross, which were at once pretty generally acknowledged as decisive on one of the most important of the old issues. Gross's 'Gild Merchant'[3] is limited in its scope to England. But England had been often regarded as the peculiar home of gilds. It had furnished some of the most frequently quoted evidence for a direct influence of the gild on the civic constitution. Accordingly, the apparent demonstration that the gild and the burgess-body were always distinct, and that the gild merchant had no influence on the origin of the municipal constitution in England, could not fail to react on German opinion as to German towns. This was all the more likely to be the case, since his results agreed in the main with those simultaneously reached by Hegel,[4] after an investigation covering the whole

[1] Sohm adduces, as it seems to me, no evidence at all for the alleged connection between the *Weichbild* and the idea of the king's perpetual presence. Cf. my brief notice of the *Entstehung* in the *English Historical Review*, vii. 340.

[2] *Ursprung der deutschen Stadtverfassung*, passim, and especially p. 11 seq.

[3] Charles Gross, *The Gild Merchant: a Contribution to British Municipal History*, 2 vols. (Oxford, 1890). [See also hereon, *infra*, p. 213.]

[4] Karl Hegel, *Städte und Gilden des germanischen Völker im Mittelalter*, 2 vols. (Leipzig, 1891). For a fuller account of Hegel's substantial treatise, see my review in the *Economic Journal*, iii. 684.

range of the Teutonic and Scandinavian world. Hegel took occasion, it may be noticed, to oppose the most complete denial to Nitzsch's theory as to the evolution of the craft gilds out of an original all-embracing merchant gild.

Into the minutiæ of the discussion which was immediately excited by these writings of von Below and Sohm, of Hegel and Gross, it would be wearisome to enter. Innumerable have been the essays that have appeared dealing with some particular point, such as *Weichbild* or burgage-tenure, or the regulation of weights and measures, or with the history of particular towns or groups of towns.[1] What will interest us more are the attempts which, after three or four years of such discussion, certain scholars are now making to take a survey of the whole field, and once more to set about a work of construction which shall assign to each element its proper place in the completed structure. Four such attempts stand out from the rest for the distinction of their authors or the thoroughness of the performance; and this article will be mainly occupied with a statement and comparison of their conclusions. They are, arranged in order of time: (1) the section on 'La Commune Urbaine' in M. Jacques Flach's 'Origines de l'Ancienne France;'[2] (2) three articles 'Zur Entstehung der deutschen Stadtverfassung,' by Dr. Willi Varges, in Conrad's 'Jahrbücher für Nationalökonomie;'[3] (3) three articles on 'L'Origine des Constitutions Urbaines au Moyen Âge,' by M. H. Pirenne, in the 'Revue Historique;'[4] and (4) 'Untersuchungen über den Ursprung der deutschen Stadtverfassung,' by Dr. F. Keutgen.[5] Of these, M. Flach concerns himself only with

[1] Long lists will be found in several places; e.g. at the beginning of Varges's articles, to be shortly referred to, and in Richard Schröder's *Lehrbuch der deutschen Rechtsgeschichte* (2nd ed.), p. 600.

[2] Vol. ii., 1893. The subject occupies 213 pages, or, with the chapters on *la sauveté* which precede, 254 pages.

[3] In the parts for August 31, 1893; December 22, 1894; and April 30, 1895—in all, 156 pages.

[4] In the parts for September 1893 and January and March 1895—in all, 109 pages.

[5] Leipzig, 1895, 236 pages.

France; but he recognises that 'the points of comparison and contact, especially in the east of France, between the development of municipal government in France and Germany are so numerous' that a French scholar cannot afford to disregard what has been done elsewhere. And, as his preliminary survey of 'general theories' shows, he writes with a constant recollection of German doctrines. Dr. Varges and Dr. Keutgen limit their range to Germany; and the latter declares that this limitation is one of principle as well as of convenience, on account of the essential difference between the course of affairs in German and Romance lands.[1] M. Pirenne alone seeks to include both France and Germany in one view, and justifies this procedure by considerations capable of even wider application than he himself makes of them.[2]

III

M. Flach divides French towns into two classes: the 'ancient' or 'old' cities, or, more strictly, those arising from

[1] 'Man mag einzelne Erscheinungen zum Vergleich heranziehen, aber eine so vollkommene Gleichheit auch durch das fränkische Recht auf einem Teile des deutschen und des französischen Gebiets hergestellt worden sein mag, so wäre es doch verfehlt, für die Verfassungsgeschichte diesen Bezirk als Einheit zu nehmen. . . . Im allgemeinen ist daran festzuhalten, dass die Ausgangspunkte für die Verfassung auf deutschem und auf romanischem Gebiete wesentlich verschiedene waren. Und trotz aller Parallelen die sich ziehen liessen, hat sich diese Verschiedenheit später bewährt' (p. 7).

[2] 'Le problème a été généralement envisagé à un point de vue trop étroitement national. Si, comme la féodalité ou le socialisme contemporain, les villes du moyen âge sont avant tout le produit de certaines causes économiques et sociales, il faut, ce semble, les étudier sans tenir compte des frontières politiques. De même qu'on ne distingue pas une féodalité française et une féodalité allemande, de même aussi il n'y a pas lieu d'établir une ligne de démarcation entre les villes allemandes et les villes françaises. . . . Les causes profondes des origines du mouvement sont les mêmes dans les deux parties de la *Francia*. Dans les bassins de la Seine et du Rhin, l'organisation primitive des villes présente les mêmes caractères essentiels.'—*Revue Historique*, liii. 82.

'a regeneration and remoulding' of ancient (Roman) cities; and the 'new' towns, which owed their birth entirely to the Middle Ages.[1] And first as to the former of these two classes. No mistake can be greater, he thinks, than to suppose that the Gallo-Roman cities in passing through the mediæval centuries underwent nothing but a slow and gradual modification of their peculiar institutions. All of them were wellnigh ruined by the barbarian invasions and the wars that followed: and, to retain any fragment of their old civic life, their inhabitants were compelled to gather more closely together, and to fortify, with the débris of old walls lying round on every side, a small portion of what had once been the city area. This contracted and reconstructed fragment of the old Roman city was the *castrum* or *civitas* (*cité*) of our early mediæval documents. Within it, upon rising ground, or with its back upon the city wall, commonly rose a citadel, a *castellum*, *arx*, *maxima turris*, *château*, or *castrum* (in a narrower sense of the term); and outside it, grew up by degrees, in the eleventh century and afterwards, one or more *bourgs*, usually around some religious house. 'The unity of the ancient city was broken, and with it all real continuity. The later town was not the natural descendant of the old city. It could not come into existence until a new unification had taken place; and until groups of population hitherto different in character and merely juxtaposed' (i.e. those of the *château*, the *cité*, and the *bourgs*) 'were blended and assimilated as the result of being enclosed within the same walls.'[2]

[1] This distinction between 'les villes antiques' (p. 301), or 'les vieilles cités' (p. 304), and 'les villes nouvelles' is not always kept in the forefront; but it dominates M. Flach's whole argument.

[2] In Book III. ch. iii. M. Flach lays down the general proposition as to 'la distinction entre la cité, le bourg et le château' (p. 250); and in ch. iv. he supports it by the instances set forth at length of Rouen, Tours, Bourges, Nevers, Périgueux, Albi, Toulouse, Béziers, Nîmes, Montpellier, Narbonne, and Carcassonne. Cf. Mistral's *Dictionnaire Provençal-Français*, *s.v.* Bourg: 'La plupart des villes du Midi, Arles, Digne, Castellane, Carcassonne, Narbonne, Toulouse, Rodez, etc., se divisaient au moyen âge en deux parties, *la ciéuta* et *lou bourg*. *La*

But in the eleventh century this unity had still to be created; and meantime the physical severance of the various parts of what, by anticipation, we may call the 'town,' was paralleled and surpassed by the partition of authority over its inhabitants. The Frankish policy of exercising public authority by means of *comites*, or counts; the Carlovingian policy of relying upon and favouring the bishops; the tendency for public offices to become fiefs; the necessity under which the bishops lay of securing the assistance of *advocati*, *avoués*, *Vögte*; the grant of ecclesiastical and lay *immunities*; the practice among the great lords of appointing representatives to exercise their authority (*vicedomini*, *vidames*); the almost endless delegation, reservation, and subdivision of rights both of property and of jurisdiction—all these led to an extreme *fractionnement* of authority, and brought it about that, while most towns had certain large features in common, the details of their government differed in almost endless variety. Thus at Amiens there existed, side by side, a count and a bishop, a *vidame* and a *vicomte*, a *châtelain* and an *avoué*. To make the confusion worse, most of these had their own executive officers—the *vicarii* or *viguiers*, the *prepositi* or *prévôts*, and the like, one or more. The jurisdiction exercised by these various seigneurs and officials was, in theory, clearly distinguishable as either public or private; but, in practice, the line was not easy to draw. Most great lords exercised at the same time a jurisdiction in its origin private, and a jurisdiction in its origin public over different persons, or over the same persons in different capacities. In many towns there were, in addition, a number of little fortresses inhabited by knights or even by wealthy merchants, each claiming all the jurisdiction he could get over his handful of retainers or tenants. In these respects there is no conspicuous difference between France and Western Germany; and any attempt to draw a sharp contrast—as

civita, la cité, était l'ancienne ville, généralement entourée de murs; *le bourg*, formé de maisons élevées peu à peu en dehors de l'enceinte, était séparé de la cité par un certain espace; tandis que la *bourgade* (faubourg) était attenante aux murs.'

that in France the secular authority of the bishops rested on immunities, while on the Rhine it rested on grants of county jurisdiction—is defeated by the evidence.[1]

So much for 'the old towns.' As they grew up around the *cité*, so most of 'the new towns' grew up around a castle or a religious house. The castle brought people together in various ways. Homes were needed for its soldiers' families, and for the artisans who supplied their wants. The castle chapel served as a parish church. The market, which the lord's interest in cheap provisions led him to establish, attracted traders; and the walls gave protection to refugees from justice or tyranny. That such agglomerations frequently became towns is shown by the number of town names partially composed of such words as *château, châtel, châtillon, ferté, roche*, &c. In such towns authority was more likely to be held in a single hand than in the old cities; though it was common enough for one or more ecclesiastical *bourgs* to grow up outside.

Monasteries and cathedrals still more frequently served as nuclei for town-formation. Their walls were almost as sure a protection as those of a castle. They needed an equally large body of servants, though some of them were of a different kind. To such as gained a fame for miracle-working relics, first pilgrims came, then traders, then artisans —just as to a famous shrine to-day. Very commonly the close enjoyed the right of *asylum*. Sometimes the right was extended to an area large enough to contain a whole *bourg*—'a *sauveté*, properly so called;' and, where that was the case, there was likely to be a continual influx of the distressed and the ruffianly.

M. Flach is the first writer, so far as I know, to assign to the *sauveté* (*salvitas, salva terra*)—equivalent apparently to the English *sanctuary*[2]—a part in the creation of the mediæval city constitution. For his view, set forth at

[1] *Origines de l'ancienne France*, ii. 281–285. On the identity of the *châtelain* and *Burggraf*, see *ibid.* p. 294.

[2] As in the cases of Hexham, Ripon, Beverley, Durham, Beaulieu, Westminster, and St. Martin's-le-Grand in London.

length, we must turn to earlier chapters of the book. He there seeks to show how the sanctuary originated in religious reverence; how it received the recognition of the secular authorities by a distinct surrender of their jurisdiction; and how complete immunity from external claims was balanced by complete subjection to the sanctuary's lord. The relation between sanctuary and town is illustrated by Chapelle Aude in Berry. In 1058 a local seigneur gave certain lands and dues there to the great abbey of St. Denis. Thereupon a priory was founded; but, to obtain a population for the town the monks wished to create, a *sauveté* had to be established. Four wooden crosses were set up at the corners of a tract of land large enough to hold a *bourg* (and including something more than the lands which had become the property of the abbey); and King Philip I., with the assent of his lords, granted to the tract so marked out complete freedom from external jurisdiction, from toll, and from military service. Fortunately, we possess a charter granted in the year 1073 by the prior to what were already called the 'burgenses' of the 'villa,' from which we learn that the charges levied upon the inhabitants in return for the advantages thus bestowed were already fixed by mutual understanding. This charter reveals, moreover, the germs of a communal militia in the article which binds every burgess to march out under the prior to ward off tyrannical assaults; as well as the idea of a communal treasury in the article obliging the burgesses to maintain, at their common expense, such great personages as might visit the town for its common benefit. It is thus, says M. Flach, a precursor of the communal charters, and it is isolated only because our material is defective. 'Nothing could show more clearly the position of the *sauveté* as an historic link between the mere village group and the urban commune.'[1]

But the rise of new towns was not due in every case to the presence of a castle or religious house. Villages occupying peculiarly favourable situations sometimes grew into

[1] *Origines*, ii. 202.

towns. 'Yet mere increase in size was not sufficient to transform them into towns. For that it needed the conjunction of several propitious circumstances. In my opinion, three principal elements distinguish towns from villages: a material protection, resulting from the presence of considerable fortifications; a religious protection, secured by the residence of a bishop, the presence of a church possessing venerated relics or of a monastery belonging to a powerful order; and commercial activity, shown by the holding of at least a weekly market.'[1] The absence of any one of these three might suffice to balk the fairest hopes. M. Flach cannot agree with those—as, for instance, Hegel—who believe that mere fortification by wall and rampart was not essential to a town's being; that the vital element was the possession of a court of its own (*ein eximiertes Stadtgericht*). The 'ancient' towns survived, though they enjoyed no such franchise; and, on the other hand, many places that had received that franchise never succeeded in really becoming towns.

The earliest transformations of villages into towns go back, as in the case of Bruges, to the invasions of the ninth and tenth centuries, and the building of walls which these occasioned. *Oppidum* itself commonly meant such a fortified place; and to fortify a village and 'erect an *oppidum*' were synonymous expressions. The new prospect of security usually led in no long time to the appearance of the other elements necessary to make a town; and, as the seigneurs of such villages (always subject to some lord or other) were usually glad to encourage a conflux of residents for the sake alike of the revenue and of the military strength they brought, they were ready to assist the process by the grant of liberties—especially the rights of free alienation of land, and of trial in all matters, civil and criminal, before town *échevins*. The advantages to be derived from authority over a town were so considerable that a lord would now and again set about the creation of one by the proffer of large privileges to

[1] *Origines*, ii. 329. Cf. ii. 341: 'Les divers éléments que nous considérons comme organiques, élément religieux, commercial, militaire.'

all comers. Such attempts illustrate the close connection between the progress of municipal liberties and the self-interest of the seigneurs; but it must be added that they were rare, and still more rarely successful.

Nor must the fair words of charters deceive us as to the real position of affairs in all towns, whatever their origin. The lord's castle at all times held the town at his mercy. Arbitrary authority lay behind all his relations with the townsfolk. Hence it was that the destruction of the castle was the first desire of the young communes and the necessary prerequisite for any real liberation. The monastery—weaker, as a rule, in the arm of flesh—was supported by the religious sanctions it could invoke. And, whether the lords were lay or clerical, the resistance of the people was weakened by differences of status, by divergence of interests, by dependence on different lords, by the tendency to make common cause with one's own lord against all outsiders, and by the prevalence of 'personal' law.

Nevertheless, forces were already at work tending towards unity. In a chapter on 'la formation du lien corporatif,' M. Flach sets forth the ways in which divers groups within the town acquired a sense of corporate life. These groups he conceives of as the 'cellules' out of which the later municipality was to grow. Which of them should serve as the nucleus for the others to gather around depended altogether on their relative vitality and vigour.

There was first the link of common material interests. The *castrum* may have inherited some fragments of the communal property of the old Roman city; the village which had grown into a town retained its old rights of common. Then there was the tie created by the common possession of those privileges of *asylum* which the townsfolk frequently enjoyed. This asylum might be an extension to the whole town of the special advantages of the royal palace; but cases so explicable were very exceptional, and all such went back to a special grant, and were by no means the offspring of a mere legal fiction (as Sohm would have it). The real source of town asylum, as a rule, was the *sauveté*

already described. The cross was its symbol, and had originally nothing to do with the market (as Sohm and others maintain). On the contrary, it was the asylum which really gave security to the frequenters of the market: the special market-peace was limited in duration to the market hours, and there is no trace of its extension.

But there were even closer bonds of union, and three in particular—the tie of caste, of religion, and of industry.[1]

As to caste. At the head of the town population were the *chevaliers*, serving the lord (or lords) of the town, and usually holding a fortified house within it and extensive domains outside. Next to them was 'the class of free men, the *bourgeois* proper.' They were marked out by the right to answer only before magistrates appointed from among themselves and representing the old public justice of pre-feudal times—to wit, the *échevins*; a fact not peculiar to the north of the country, though that special designation might be. As the number of these 'free burghers' could be added to by enfranchisement, one might suppose that it would be the *échevinage* which would serve as a centre for all the non-military (*roturière*) population to attach themselves to. But such an outcome was rare. Usually the burghers (or the richer among them) and the *chevaliers* drew together, made common cause, and monopolised the town magistracy—an alliance facilitated by the position of the intermediate class of *ministériales*. When the communal movement began, it was this urban patriciate which placed itself at the head, and reaped the harvest.

Among the lower people—the *minores, plebs, vulgus*—the most effective bond of union was the parish. The parish created local groups, with a strong corporate sense, out of disconnected dependents of rival lords. And within the parishes grew up the even closer associations of religious gilds, fraternities, 'charities,' with mutual assistance for the redress of wrong and the support of the unfortunate, and common obedience to chosen officers. Analogous results were reached by the merchant and craft gilds. All these frater-

[1] *Origines*, ii. 368.

nities, professional and non-professional, may be regarded as going back to three sources—Roman (for M. Flach thinks it probable that the tradition of the Roman *collegia* never wholly died out), Germanic (marked especially by the mutual oath), and Christian.

Various corporate groups had thus come into existence. Here a patrician, there a plebeian, association showed most vigour; and, when the moment came, this association put itself forward, gathered around itself the rest of the population, impressed upon it its own stamp of a sworn brotherhood, and, lo! the sworn 'commune.' The token of their success was the acquisition of a charter, by force or by bargain; and this charter, conferring as it did rights on the whole body of inhabitants, gave them new and strong common interests. Not that they had never possessed any common interests before. M. Flach repeats that the *sauveté* and the *immunité* had sometimes served this purpose. In other cases the parochial machinery was strong enough to serve the purposes of municipal administration.

Where there were no such institutions or none strong enough, the preliminary task of binding together the town population might be accomplished by an *institution de paix* —a voluntary union for the maintenance of the peace—or by an *amitié* or general association of townsmen. But, whatever unifying forces had previously been at work, it was the *sworn confederation* of diverse social elements which formed the really original feature in the new communes. The violence of the communal movement in the north of France was the consequence of race temperament reacting against a harsh seigneurial rule. The comparative quietness of a transition substantially similar to it in the south may be explained by a gentler rule over a milder people. The general results, however, were much the same. The divergencies in detail, indeed, between the several constitutions were so great, and the number of possible combinations of particular features so large, that it is very difficult to classify them. Still, the town charters may be roughly arranged in three groups: (1) those granted to

sworn communes, whose main significance lay in the recognition of an already existing 'urban association;' (2) the charters of customs, regulating the obligations of the inhabitants towards the lord, with little reference to municipal organisation; and (3) the charters of franchise, based indirectly on *sauvetés*, directly on *institutions de paix* and brotherhoods, and settling at the same time the form of government and the amount of dues.

As this outline of M. Flach's chapters may have shown, the lucidity which marks the earlier stages of the exposition is hardly maintained in the later. It becomes not infrequently difficult to discern M. Flach's real meaning; and I cannot be at all sure that I have not misrepresented him. As he proceeds, he loses control of his material; until in the last three chapters the several factors of the town constitution not only fail to be put into any distinctly intelligible relation to one another, they are hardly even disentangled. The final impression of the communal movement which he creates seems to be not at all unlike that already traditional with French writers, and stated but shortly before by M. Luchaire. The agreement between M. Flach and M. Luchaire is especially close in regard to the relation of the fraternities and gilds to the sworn commune: what with the latter are 'germs,' constituting 'a community before the commune,' are with the former 'cellules,' forming a 'lien corporatif' before the 'lien communal.' What we have chiefly to thank M. Flach for is the attempt to picture the urban 'agglomeration' of the *early* Middle Ages, and to bridge over the gulf between that and the Roman city whose site it occupied. He succeeds in making us feel how complex was the development which lay at the back of the communal movement itself, and the multiplicity of the factors which have to be taken into account in towns of any magnitude. He certainly produces in the reader—and this is no small thing—a frame of mind indisposed to hastily accept any large and sweeping theory.

On looking back over his examples one cannot fail to be

struck by the fact that the 'ancient cities' include the great majority of the important towns of mediæval France. And the probability presents itself—which would need to be tested by a more strictly chronological arrangement of the material than we find with M. Flach—that the development of the new towns took place under the influence of conceptions of citizenship to which the history of the older towns had already given birth.

We may single out from his account of each class of towns one feature as calling for special notice. With the old cities it is the relation of the *bourg* to the *cité*, and their subsequent union. That the situation was as he describes it seems abundantly proved for central and southern France; and there were, as we shall see, precisely analogous cases in Germany and elsewhere. But the use of the term *bourg* raises some difficult questions to which we shall return later.[1]

As to the new towns, M. Flach, as before remarked, puts forward what looks like a fresh view, in the importance ascribed to the *sauveté*. But it must be said that he does not make it quite clear what the *sauveté* was. In one place, he remarks incidentally that the *sauveté* was 'only an application of the Truce of God;'[2] and he throughout carefully distinguishes it from an immunity.[3] Yet in the examples he produces the *sauveté* looks remarkably like an immunity; but an immunity for granting which reasons were given peculiarly appropriate in the case of a religious body in times of violence. And M. Flach does not make it clear that the *sauveté* was an important factor, *eo nomine*, in the development of any town of importance.[4]

IV

Dr. Willi Varges's articles on the origin of the constitution of German towns, to which we turn next, differ in their

[1] See *infra*, p. 193, *n.* 2. [2] *Origines*, ii. 391. [3] *Ibid.* p. 365.

[4] [The most recent statement of M. Flach's views will be found in his *Origine Historique de l'Habitation et des Lieux Habités* (1899), where, on pp. 53–55, M. Pirenne is subjected to a just criticism.]

composition as widely as they well could from the chapters of M. Flach. They make no effort after a pleasant style; the argument is arranged with the utmost formality; each paragraph opens with a proposition, and then goes on for a page or more to furnish the proof. While M. Flach refers only to original authorities, Dr. Varges freely employs the modern literature of the subject side by side with the sources, and has no hesitation in borrowing his references. His own studies have apparently been directed to the North-German towns, especially Brunswick; but his conclusions are stated as if valid for the whole of Germany. They are as follows:

Towns have commonly grown out of villages; but, when fully grown, they are marked off from villages by four characteristics. Towns are fortified (*befestigt*); they enjoy a special peace (*befriedet*); they possess the right of trade (*Verkehrsrecht: usus negotiandi, usus mercatorius, potestas mercandi, mercatus*), which meant much more than the privileges of a market; they are corporations of public law, exempted from the jurisdiction of the *Gau*, and possessing rights equal to those of the *Gau*. And so the inhabitants are defenders of their stronghold, their *Bury*, and hence *burgenses*, burgesses; they enjoy a higher protection than villagers; they have the right at all times to carry on trade in the town, and hence are *mercatores*, merchants or traders; and they form a community with a court of their own (*bilden eine eigene Gerichtsgemeinde*), and live under a town-law of their own creation.[1]

1. The town as a stronghold (*Festung*). This was at first its most important characteristic: as the early use of *Bury* for town, not replaced by *Stadt* till after 1100, and the terms *burgensis* and *Bürger*, clearly indicate. The works of defence consisted of a circuit of walls (at first merely of earth or timber), and usually a moat: a group of houses which merely lay *under* or *near* a castle was not a town. As the right to fortify was a royal prerogative (*Regal*), the towns were originally royal fortresses. Hence the first inhabitants are to be regarded as 'a standing garrison:' not,

[1] *Jahrbücher für Nationalökonomie*, lxi. (F. 3, B. vi.) 164.

indeed, that they were professional troops—they were merely members of the nation to whom had clung the old obligation of military service once resting on the whole people.[1] Indeed, the burghers and the knights formed the two branches of the new military system, now taking the place of the old: the former did garrison duty, the latter served in the field. And the functionary who first appears as exercising authority in the town, under whatever name—*præfectus*, *Vogt*, *Burggraf*—is primarily a Constable or Captain of the Castle.

2. The town as a place enjoying a special peace (*Friedeort*). The exceptional peace (or *Bann*) which prevailed in the town, involving the punishment of criminal offences committed there by exceptionally severe penalties, was the king's peace; and the *Weichbild*, or town emblem, was its peculiar sign. And here Dr. Varges puts forward what is, so far as I know, a quite original explanation of the origin of the town peace; namely, that it is nothing more or less than the primitive peace of the national army (*Heerbannfriede*), specialised for the benefit of a standing garrison. Towns, he repeats, were at first essentially military in their character. They were nothing but fortified villages, whose inhabitants, though peasants engaged in agriculture, were subject to special military obligations, and therefore enjoyed a special protection. Trade was carried on only in unusually favourable situations, and then chiefly by foreigners and Jews.

3. The town as a place of trade. As time went on, the characteristics of the town altogether changed. The fact of trade and the right to trade became all-important. The

[1] *Jahrbücher für Nationalökonomie*, lxi. (F. 3, B. vi.), p. 175: 'In den Stadtbewohnern, den Bürgern, hat sich ein Rest des alten Volksheeres erhalten,' following von Maurer, i. 485, *n.* 'Der Kriegsdienst der Bürger war immer noch der alte Königsdienst.' In this connection it is usual to cite the passage of Witukind, describing how Henry I. (the Fowler) selected one out of every nine of the 'agrarii milites' to dwell in the strong places (*urbes*) he had erected. This term is very variously interpreted: by Waitz and Giesebrecht as 'königliche Ministerialen,' by Varges as 'wehrhaftige, heerpflichtige Dorfbewohner,' and by Keutgen by what is the same, 'heerbannpflichtige Bauern.'

right to trade rested on a grant by the king, or other lord, of the *potestas mercandi* or *mercatus*. Such grants were not originally bestowed only on towns: they were sometimes given to religious houses or villages. The modern terms *Markt, market*, are doubtless derived from *mercatus*; but it is altogether a mistake to limit the meaning of *mercatus* to the right to hold a market. His contention on this point is Dr. Varges's most original contribution to the discussion. The general right to trade, he declares, had nothing necessarily to do with markets, which, on the contrary, interfered with it; and markets really played a very subordinate part in the building-up of the town constitution. All burghers settled in the town could, if they chose, take part in trade; and there was no merchant-gild monopoly.

4. The town as a community of public law. Without its own court and its own law the town was not complete. The appearance of the court was the consequence of the growth of a peculiar town-law; and this town-law was not the outcome of a merchant-law (itself perhaps growing out of a special king's law), as Sohm and others maintain, but simply the common law of the country modified by new economic needs, and varying widely from place to place. Townsfolk had long been marked off from countryfolk by the town walls, by the special peace, by the obligation of watch and ward. The contrast was now heightened by the activity of trade. At the same time the construction of a peculiar town-law necessarily led to the establishment of a separate tribunal; and this might come about in any one of several ways—by the transformation of a county court (*Grafschaftsgericht*), by the addition of authority to an assembly of peasants, or by the establishment of a brand-new jurisdiction.

And now the burgher body, the *Stadtgemeinde*, what was it? As a rule, nothing but an enlargement and modification of a *Landgemeinde*, a village group. The enlargement was brought about in several ways, especially by the union of several neighbouring *Ortsgemeinde* ('synoikismus'), and by a stream of immigration the volume and effect of which can hardly be exaggerated. An elaborate, and not very

convincing, argument follows, as to the legal facility of emigration from the rural lordships.

Burgess-rights were bound up with the possession of land or house within the town. But to obtain house or land was not difficult, and it was early facilitated by the institution of *Wortzins*. In most of the towns, especially the older ones, the land was not the absolute property of citizens: it was held of a lord, but on very beneficial terms. The holding was burdened only by a fixed money rent (becoming nominal in course of time), and it was freely alienable and heritable.

At first the craftsmen were as much citizens as the merchants. Not till later, usually after the establishment of a town council at the beginning of the thirteenth century, did the larger landholders and the 'merchants' in the modern sense form a patriciate monopolising the government. In earlier times *mercator* designated the craftsman as well as the mere trader.

The foregoing abstract will have shown that, as M. Flach substantially follows Luchaire and Giry, so Dr. Varges bases his construction on von Below and von Maurer. The two new features which call for notice are the doctrine of the *Burg* and the doctrine of the *mercatus*.

As to the *Burg*, it will be seen, on looking up the references candidly supplied by Dr. Varges, that the idea of the importance of the fortifications—an importance so great that they furnished the chief external trait of the mediæval town—had already been forcibly expressed and supported with abundant learning by von Maurer.[1] Bücher,[2] and probably

[1] *Städteverfassung*, i. 103.

[2] In a lecture given in October, 1890, entitled *Die Entstehung der Volkswirthschaft*, and printed in the volume bearing that name in 1893, p. 45: 'Die mittelälterliche Stadt ist in erster Linie eine Burg, d.h. ein mit Mauern und Gräben befestigter Ort. . . . Anfangs sind die dauernden Bewohner der Stadt auch hinsichtlich ihrer Beschäftigung in keiner Weise von den Bewohnern der Landorte unterschieden. . . . Aber ihr Gemeindeleben erschöpft sich nicht in der Regelung der Allmendnutzung. . . . Sie sind ja sozusagen als eine stehende Besatzung in die

other writers, had described the burghers as a standing garrison. What is new with Varges would seem to be the consequence drawn from his garrison theory as to the genesis of the town-peace. That *Burg* meant a place of defence, that the oldest 'towns' were in some way connected with defence, we can hardly doubt. It is well known, also, that in the later Middle Ages towns on the continent of Europe were commonly surrounded by walls and moat. But it is by no means clear to my mind that we are to think of the earlier *Burgen* as walled towns. The 'burhs' which Edward the Elder and his sister Ethelfleda were building in Mercia at the very time that Henry the Fowler was building his *Burgen* in Saxony are usually described—and the description seems to be justified by existing remains—as earthen mounds, surmounted by wooden stockades.[1] This might be an equally true description of the German *Burg*. M. Flach has shown us how, from the cluster of cabins around and beneath the citadel of a lord, towns might and sometimes did come into existence in France; and there seems no reason why the same should not be true of Germany. The people defended by, and, if need were, taking part in the defence of a *Burg*, a *Burh*, might naturally enough be called *Burgliudi* (= *Burgleute*), or in Anglo-Saxon, *Buruh-waru*, long before they themselves were girdled around by a wall. Dr. Varges's examples of wall-construction around towns all belong to a comparatively late period.[2]

Burg gelegt.' This view Bücher associates with the further theory that the existence of a town implied the formation of a protective association (*Schutzverband*) among the rural settlements of a more or less considerable area around, all of whose inhabitants were bound to keep up the fortifications, and take part in their defence. In return, they had the right to take refuge (*zu bergen*) behind the walls with wife and child, cattle and goods. 'This right is called *Burgrecht*, and he who enjoys it is a *Bürger*!'

[1] *English Chronicle*, s. a. 913. Hereon see Green's *Conquest of England*, p. 198 seq.; Boase's *Oxford*, p. 3.

[2] Writers who have dwelt on the connection of *Burg* with fortification have not noticed the doubt cast upon it by the use of *bourg*, clearly the same word, in French. *Bourg* is popularly used in many parts of

As to trade, it is certainly worth observing that in many charters the right is granted in very general terms, without limitation to markets or particular days.[1] Dr. Varges has done well to point this out; and the whole subject of mediæval trading usages requires fresh investigation. But it may be asked whether, apart from the sale of food, trade was not, as a matter of fact, usually carried on in markets and fairs; whether we can suppose that the sale of food by one neighbour to another ever really required permission by charter; whether the benevolence of the grant of trading rights on the lord's part and the value of it to the recipient did not lie in the permission it gave to levy tolls on the frequenters of the market, and especially on outsiders. As to the term *mercatus*, Dr. Varges's attempt to free it from association with the market is rendered the more difficult by the fact, to which he does not refer, that in classical Latinity it meant a market-place or mart (among other things), and never trade in the abstract. Some of the earliest

France, especially in the centre and in Normandy, for 'toute agglomération d'habitations ayant un clocher, fût-elle réduite à un très petit nombre de maisons,' Jaubert, *Glossaire du Centre de la France*, with an apt quotation from G. Sand's *Valentine*. The dictionary-makers, however, define it as 'Gros' (Littré 'Grand') 'village où l'on tient marché,' *Dictionnaire de l'Académie*; to which the Academy adds, 'ordinairement entouré de murailles.' The word was early connected by philologers with the Greek *πύργος* and the German *Burg*; and this raised the question whether it implied the presence of fortifications. Thus the *Dictionnaire de Trévoux* (1743), after defining *Bourg* as 'ville non close; habitation de peuple qui tient le milieu entre la ville et le village,' adds, 'Quelques-uns le restreignent aux lieux qui ne sont fermés ni de murs ni de fossés. D'autres, au contraire, comme messieurs de l'Académie, veulent que ce soit un gros village, fermé de petites murailles.' Certainly, as applied to a settlement outside a *cité*, it suggested the absence of walls. See above, p. 179 and *n.*

[1] Thus in the charter to Magdeburg (A.D. 1201–38), 'Quilibet burgensis, aut propriam habens aream vel domum, quarumcunque rerum venalitatem habuerit, eas in domo propria libere vendere potest, aut pro aliis rebus commutare.' But it must be noticed that this is comparatively late in town history. It does not follow that the grant of a market may not have had great importance in an earlier century.

charters, also, use verbs in conjunction with *mercatus*, which are most naturally interpreted in the more limited sense.[1] Moreover, he weakens his argument by constantly bracketing together *Wochenmarkt* and *Jahrmarkt*, market and fair, as if their functions were much the same. The fair involved, as it seems to me, a temporary suspension of the economic system of the town, while the market was an ordinary part of it.

V

The articles of M. Pirenne, next in order, combine, as we might expect from a Belgian writer with a German training, the merits of both German and French methods of exposition. Like Dr. Varges, he takes pains with the arrangement of his material; but, fortunately, he also resembles M. Flach in aiming at a certain elegance of presentation.

M. Pirenne begins by following M. Flach in his account of the fortunes of the Roman cities in the Dark Ages. They survived, in a sense, huddled up in a corner of their old site: but all the old municipal life died out. Such activity as was still to be seen was usually that of some ecclesiastical establishment, most commonly of a bishop and his *ministeriales*. Meanwhile, in the country around, freedom had disappeared: the whole land was broken up into seigneurial domains, tilled by serfs of various degrees. Trade ceased: the western world 'entered on the agricultural period of the Middle Ages.' Town life was no longer urban: the town was now only a place of 'religion,' and the centre for the administration of great ecclesiastical domains. This was roughly true of all the

[1] 'Mercatum *erigere*,' Charter to the Abbey of Quedlinburg, A.D. 993. 'Licentiam *construendi* mercatum,' to the Archbishop of Bremen, A.D. 1003. 'Mercatum vero constituat publicum *in illis* ubicunque abbati placuerit *locis*,' Charter to the Abbey of Corvey, A.D. 946. Cf. 'Mercatum constituimus in Burch, ut nullum aliud habeatur inter Stanfordiam et Huntenden,' Charter of Edgar to the Abbey of Peterborough.

more considerable ancient towns, in spite of the facts that some towns, relatively few in number, were the residence of lay, and not of ecclesiastical, lords ; that a public jurisdiction survived, in theory at least, by the side of manorial ; and that no town altogether escaped 'the law of dispersion.' The town, in its later legal sense, did not yet exist.

The great change came with the rise of trade in the eleventh century, and the formation in various places of groups of merchants and artisans. The idea that these men were, in any important sense, brought together by the prior existence at such places of any such local attraction as a religious house, a castle, or a market, M. Pirenne brushes aside. He declares that these aggregations were due to 'purely natural causes.' They are to be explained not by history, but by geography. As trade grew up, points of vantage were fixed upon as places of residence, precisely as we see them being occupied in new countries to-day. True, most of these places were upon the sites of old Roman towns ; but this was only because those sites were favourably situated for trade, especially such of them as were at the points of intersection of old Roman roads. A new economic period opens : trade takes its place by the side of agriculture, and 'the towns are the work of the merchants.' [1]

To explain the position of affairs, M. Pirenne turns aside to sketch the previous history of the merchant class. The trader, as he first makes his appearance in the Carlovingian age, whether man of wealth or petty peddler, is 'essentially a wandering being, passing continually from place to place, and both protected and exploited by the sovereign.' The same is true after the restoration of order in Germany by the Saxon kings. Still, wanderers as they were, they must have

[1] 'Les villes sont l'œuvre des marchands ; elles n'existent que par eux. Romaines ou non-romaines d'origine, siège d'un évêché, d'un monastère, ou d'un château, libres ou soumises au droit domanial, elles ne commencent à acquérir une constitution municipale que du jour où, *à côté de leur opulation primitive*, vient se fixer une autre population, vivant essentiellement de commerce et d'industrie.'—*Revue Historique*, lvii. 70.

had resting-places for the winter; not to mention homes for their families—a necessity which M. Pirenne overlooks. Accordingly, settlements of merchants began to be seen at convenient places. But as already explained, such sites were already partially occupied 'by the towns of the agricultural age'; and so now, beneath the old walls, grew up the *faubourg*, the *Vorburg*, with its trading population. The *faubourg* was the starting-point of the town of the new era. Here was to be found the market; and the primitive burgher-body was not composed of *ministeriales* or of emancipated serfs, but of a group of settled traders.[1] The land upon which they built their homes might be subject in all sorts of ways to all sorts of lords: they themselves were of diverse origins and of every degree of opulence. But economic forces were working towards the creation of a uniform status; and they were aided by certain contemporary practices. In the first place, merchants had from early times been taken under royal protection, resulting, as M. Pirenne understands it, in their retention beneath the jurisdiction of the public courts, not, as other writers have it, in their subjection to a special royal jurisdiction apart from the public courts. The right to demand toll from traders was also a royal right; and, where inferior lords exercised it, it was always in virtue of a royal grant. Accordingly, the traders all remained under the same jurisdiction, and that a public one. Yet, as the persons who exercised it were only too likely to misuse their powers, and the traders as isolated immigrants were devoid of the support of kindred, they were obliged to combine; and so we account for merchant gilds, *hanses*, *charities*, and like associations. These associations may very well have had their first beginnings in the mutual help, the subordination to chosen leaders, necessary in the bands or 'caravans' in which during early times traders were obliged to travel for the sake of security.[2]

[1] 'Ce faubourg, point de départ de la ville nouvelle,' &c. 'C'est des marchands que se compose la bourgeoisie primitive.'—*Revue Historique*, lvii. 74.

[2] This idea and the not very appropriate term 'caravan' first appear, I believe, in an article by Lamprecht in the *Historische Zeitschrift*, lxvii.; and they are repeated in his *Deutsche Geschichte*, iii. (1893)

Then follows what we may regard as a combination of the theory of Nitzsch with the traditional French view, modified somewhat in deference perhaps to Hegel and Gross, though scant regard has been paid to their opinion as to the non-identity of *merchant* and *burgher*. The merchant gild formed at first 'a vast association,' including all who had anything to sell. Not till later did it become exclusive; and this was due partly to increasing wealth and the growth of a spirit of monopoly among the richer members, partly to the 'entire absorption of the artisan by industry' proper (as distinguished from trade). The craftsmen became wage-labourers, and ceased to have any need themselves to sell their produce. The gild in many towns secured a considerable jurisdiction in matters economic, and controlled the market: it sometimes contributed out of its funds to common town purposes. Yet it remained a voluntary society: and, while it helped in the development of town institutions, it did not create them. Its deacons (aldermen) did not become town magistrates, nor its regulations town-law. Association gave the merchants the strength required to enable them so to transform old institutions as to create the town: it did not furnish the mould into which the new constitution should run. This is illustrated by the history of the *jus mercatorum*, which appears in the eleventh century, and becomes one of the sources of later town-law. The *jus mercatorum* is not the handiwork of the gild, though the gild helped to spread and maintain it. It is simply a modification of the old common law under the pressure of the peculiar needs of traders. Accordingly, it is not peculiar to any particular country or town, but, in a sense, international.

Up to this point what we have seen has been the settlement of a new group, the traders, by the side of the old groups of *ministeriales* and serfs already to be found. The

27 seq. Thus Lamprecht lays down the proposition that 'der temporären Form der Kauffahrtgilde war die stetige der Platzgilde gefolgt.' The view is not in itself improbable; but M. Pirenne would have done well to pay more attention to von Below's amusing criticism in *Ursprung*, p. 135 seq.

next question is, How did the personal privileges of the merchants become attached to the soil? Here the key is again found in economic pressure. This first made the trader personally free; then freed the soil, and created the tenure known as *bourgage* (French), *burgage* (English), *Leihe zu Burgrecht* (German); then gave freedom from arbitrary toll in return for an annual rent paid to the lord; then brought about the establishment of a new tribunal, composed of burghers, to administer the new law. But by this time all the other groups living alongside of the traders wished to enjoy the same advantages: and out of the chaos of struggle arose, at last, the new unity, the all-embracing community. What were the chief factors in this last stage of its history?

By a new road we come once more to the town-peace. All are agreed that mediæval towns, in France as in Germany, were under such a special peace. But its origin M. Pirenne attributes neither to the peace of God nor to the peace of the market, nor to the protection enjoyed in an earlier age by merchants as individuals,[1] but, as before, simply to the constraining force of new conditions. The towns were the resorts of all sorts of shady characters; and the only way to secure anything like order was to establish a permanent 'state of siege.' That is what the town-peace was—an exceptionally severe criminal code; and it was the feeling of the need of such a Draconian code which led the townsmen to seek for the grant of a peace from their lord. The limits thereof were the city wall, which now began to be everywhere constructed to enclose the *faubourg*. The space it contained did not necessarily correspond to any previous territorial division, public or private: it was determined by economic causes alone. To secure the peace had needed a common movement of the population, and an oath of mutual support, a *conjuratio*; union was also required to secure

[1] Referring to a supposed *Kaufleutesonderrecht*, on which emphasis has been laid by many writers, notably Inama-Sternegg and Gothein. For an account of their views see Doren, *Untersuchungen zur Geschichte der Kaufmannsgilden des Mittelalters* (1893), p. 25. [Cf. *infra*, p. 224.]

exemption from seigneurial claims ; and a joint contribution had been necessary for the building of the wall. And so, in all these ways, under the pressure of a triple necessity, the commune gradually became conscious of itself.

The urban tribunal was, in like manner, the direct consequence of the novel requirements of the situation. It was, indeed, a public court ; and it succeeded to the ancient court of the *centena* (or 'hundred').[1] Still, it has a specifically urban character : it is composed of burgesses, it is more or less chosen by burgesses. And, as it is not a mere market-court in its origin, so it is not a mere survival and transformation of the court of the *centena*. It is a new creation, the necessary consequence of the recognition of the principle that the burgesses have a right to be judged in their own town by the customs there established ; and the law it enforces is, on one side, the civil law which grew out of the *jus mercatorum*, and, on the other, the criminal law born of the town-peace.

Finally, the town council is, again, no mere survival or transformation of an old institution. It is a 'college of delegates' acting on behalf of the *bourgeoisie*, such as was sure to appear as soon as the *bourgeoisie* became aware of itself. It may be called an executive committee of the burgher body.

The internal movement by which, within the now united burgher body, a separation arose between the rich and the poor, the *majores* and *minores*, and an oligarchical government was established—ruling in economic matters through the machinery of the merchant gild—belongs to a later period.

Up to the point now reached, the thirteenth century, the development had been roughly parallel, with local variations, over the whole of the country between the Elbe and the Seine. Not till now did the lines of evolution begin to diverge ; and the divergence was due not to differences of

[1] 'Maire, écoutète, avoué, le juge urbain, est le successeur incontestable de l'ancien centenier franc' (*Revue Historique*, lvii. 308) ; though the precise meaning of the remark is not free from doubt.

race, but to the difference between France and Germany in the strength of the central authority.

M. Pirenne's whole theory, it will be seen, turns on the 'colony of traders'[1] which made its appearance at the old Roman town, and on the formation of the association which 'was for them a primordial necessity.'[2] The merchant-body first secured rights for itself, and then brought about the extension of these rights to that older agglomeration of population by whose side it had settled. M. Pirenne's 'colony' is none other than the *Kaufmannsgemeinde*, which had already been made the all-important factor in town development by a succession of German writers.[3] What is original in his exposition would seem to be his freeing the influence of the merchant-community from any necessary dependence on *market*-privileges. But it suffers from the same weakness as the theory in its German garb; namely, a failure adequately to account for the extension of traders' rights to 'the divers social and juridical groups which coexisted with them.'[4] The motives which are supposed to have led to the establishment of the *peace*, to the construction of a wall (or rather *l'enceinte du faubourg*), and to the acquisition of franchises, were all motives primarily affecting the traders; and, if they could but secure these advantages for themselves, there was hardly any strong reason for desiring to extend them to others.

[1] 'Les colonies marchandes.'—*Revue Historique*, lvii. 75.

[2] *Ibid.* p. 81.

[3] 'Die Entstehung einer Kaufmannsgemeinde, eines Kaufleutegerichts, und eines besonderen Gerichtsbezirk, d.h. der Immunität vom Landrechtsverband, das sind die Grundbedingungen für die Entstehung der deutschen Städte, soweit dieselben Kaufmanns- und Marktstädte sind, d.h. dem Handel ihre Entstehung verdanken. Derartige Kaufmannsgemeinden lassen sich nun in vielen Städten Deutschlands noch positiv nachgewiesen; vor allem hat der Aufsatz Schultes sie wieder in den Vordergrund des Interesses gerückt. Sie siedeln sich in den alten Römerstädten *meist vor den Thoren der alten Stadtmauer an.* Wir wissen von solchen Kaufmannsgemeinden, z. B. in Köln, Regensburg, Worms, Mainz, Basel, in Goslar, Magdeburg, und Quedlinburg.'—Doren, *Untersuchungen*, 34.

[4] *Revue Historique*, lvii. 97.

I cannot help thinking that the light-heartedness with which M. Pirenne has passed over this very real difficulty is due to some vagueness in his own mind as to the situation of these earlier groups. Like M. Flach, and like the recent German writers who have described the *Römerstädte*, M. Pirenne begins by thinking of 'the cities of the agricultural period' as themselves *walled*.[1] In this view the *faubourg* was *outside* the walls, outside *la ville*.[2] What, then, it would be necessary to do later would be to push out the town wall so as to include the *faubourg*, or, what came to the same thing, to build an additional wall as a loop round the *faubourg*. But, when M. Pirenne gets further in his exposition, the town to which the 'colony' joins itself—that which we may call, accepting for the time M. Pirenne's general theory, 'the pre-commercial *datum*'—becomes merely a 'château et immunités.'[3] The new settlement now takes place '*in* the town.'[4] Still more surprising, the *enceinte du faubourg* is not now described as an addition to a previously existing town wall; but, starting from and returning to the 'château seigneurial,' it is the 'enceinte,' the 'mur,' 'de la ville' itself.[5] Henceforth it is argued about as if it were the first wall the town ever had.[6]

I am, of course, far from maintaining that the pre-commercial *datum* was really always a walled town. In many cases, in all probability, it was simply a *castle*, in the modern sense, with an unenclosed cluster of cabins at its foot, as M. Flach has pointed out. But it is surely worth

[1] *Revue Historique*, lvii. 60. Cf. the 'murs' and 'portes' of p. 64.

[2] In the sense of *ibid.* p. 62.

[3] 'Une *urbs nova*, un *suburbium*, un faubourg commercial, se forme à côté du château et des immunités, dont l'ensemble constitue la ville de l'âge agricole;' *ibid.* p. 74. [4] *Ibid.* p. 75. [5] *Ibid.* p. 299.

[6] M. Pirenne speaks of the *suburbium* as built 'sous les murs du *castrum* primitif,' echoing the language of M. Flach. But, while M. Pirenne gives the impression, in this latter part of his argument, that the *castrum* was simply a lord's castle, M. Flach, as we have seen, carefully distinguishes between that narrower sense and the wider sense in which it was used for a fortified town area. See *supra*, p. 179.

while to pause from time to time, and consider *which* we are to keep in our mind's eye. We can only arrive at results satisfactory to the social historian by determining to visualise the process we imagine at work; and this we cannot do so long as the centre of the picture remains in mist.

VI

We have now come to the last work upon our list, Dr. Keutgen's 'Untersuchungen'; a work, it must be remembered, strictly, and on principle, confined to Germany. It is one that may well be placed by the side of M. Pirenne's for its skilful arrangement of material and its subordination of detail to generalisation.

In his introduction Dr. Keutgen points out, what is often forgotten or denied, that the only classification of towns of any use for the present purpose must be a chronological one. German towns he divides into three groups: (1) the bishops' towns on the Rhine and Danube, of Roman origin; (2) towns springing up in inner Germany, from the ninth century onwards—whether beside an episcopal or royal household or otherwise, it matters little; (3) artificial foundations, from the end of the eleventh century, on which was bestowed an already constructed town law. But this is a classification to which Dr. Keutgen pays little attention in the rest of the treatise. His chief conclusions are conveniently given at the end of this same introduction. Two main lines of development, he says, have to be kept apart and considered separately—the origin of the urban tribunal, and the origin of the organisation of the urban community itself. The German towns formed, in the Middle Ages, separate districts (*Bezirke*) of the public judicial organisation; and the organisation of these public courts corresponds (*entspricht*) to that of the public courts in the country at large (*auf dem Lande*). The town, however, had sometimes no voice, and often but

little voice, in the actual appointment of the judges. 'As to the urban *community*, the question is' simply 'how the constitution which every German local community (*Ortsgemeinde*) possessed from the first, by virtue of its autonomy in certain matters, followed a peculiar line of development in the towns, and ended in the establishment of the council.'[1]

With regard to the town tribunal, Dr. Keutgen abides by the old explanation which traces it back to the *centena*, the *hundred* court. He thinks that, as a rule, by the tenth century the towns had come to form separate jurisdictional districts, and that these were not simply *like* hundreds, but actually *were* small hundreds. The Ottonian privileges put them into the hands of the bishops (or, to use a phraseology familiar to students of English constitutional history, made them 'dependent hundreds'). As against Arnold and von Below, Dr. Keutgen has no difficulty in showing that the grants of the Ottos did apply to specifically urban areas. In this town court, however, there was at first no special town law administered. To explain the growth of a special town law, and the legal (as distinct from the political) reasons for a separate town court, Dr. Keutgen proceeds to consider the town as a place of defence (*die Stadt als Burg*). In much the same way as von Maurer and Dr. Varges, he points out that *Burg* was the oldest German name for town; and he remarks on the survival of *borough* as the technical designation in England. He calls special attention—and this was well worth doing—to the peculiar importance of the *Burgen* established in Saxony by King Henry. Though by no means all of them became real towns, the earliest towns that did arise in inner Germany grew up at certain of the points marked by their presence. Having thus prepared the way, he suggests tentatively that the position of the town as a place of defence may have had important legal consequences. We seem to be approaching Dr. Varges's old garrison theory. But no! Dr. Keutgen's view is really more akin to that of Sohm. Everything connected with the king was, in early

[1] *Untersuchungen*, p. 9.

times, under a special peace. The *Burg as a fortress* (really, not constructively) was itself the king's in theory, if not in fact: hence it was subject to the special king's peace; and hence the *Burgfriede.*

Passing over Dr. Keutgen's elaborate criticism of the market theory, which is very effective, we reach the civic community. This, as before indicated, our author regards as merely an outgrowth from an *Ortsgemeinde.* Here he is in substantial agreement with von Maurer and von Below. Indeed, he may be regarded, on this side of the subject, as a pupil of von Below. Like him, he objects to von Maurer's terminology, chiefly because it lays, as they think, undue stress on one feature—communal management of *land*, without proper regard to other communal powers.[1]

Burgess rights, as might be expected in towns with such an origin, were bound up with the possession of land, and had nothing necessarily to do with mercantile pursuits. We may omit the long and interesting, but hardly convincing, argument as to the origin of *die städtische Erbleihe, Leihe zu Stadtrecht, zu Burgrecht* (i.e. burgage), and reach the concluding chapters. Here Dr. Keutgen comes so far to meet the market theorists as to assign great importance to the settlement (*Ansiedelung*) of traders in various places. Without them, no town. He accepts a special jurisdiction of the merchants over matters specially concerning themselves. As to weights and measures—concerning which there has been an acrid dispute—Dr. Keutgen takes the middle position that the commune (*Gemeinde*) controlled the weights and measures of articles of everyday use, the merchants those of commodities wherein they especially traded. Out of a union of the township and the market the later town grew. Into the

[1] *Untersuchungen*, p. 109: 'Die Dorfverfassung beruhte nicht, oder doch nur äusserlich, auf der Markgemeinschaft, sondern sie beruhte auf dem *Selbstbestimmungsrecht* der Gemeinde *wirthschaftlich selbständiger* Männer.' Cf. p. 110: 'Wie die Gerichtsverfassung der Stadt auf dem Boden der allgemeinen öffentlichen Gerichtsverfassung steht, so beruht auch die Verfassung der Stadtgemeinde durchaus auf den Grundlagen der allgemeinen deutschen *autonomen* Gemeindeverfassung.'

stages of the process he does not enter at any length.[1] Like M. Pirenne, the council he regards as a mere committee (*eine Art Ausschuss*) of the burgher body which was formed by the union of these two elements.

Dr. Keutgen's most original contribution to the discussion is his theory of *Burgbann*. But this, it must be observed, he leaves a mere conjecture. He himself recognises that the earlier uses of the term *Burgbann* are to be explained by the right of the *Burggraf* or some similar official to compel the residents of the environs to work at the repair of the walls. But he thinks that some confirmation of his theory is to be found in four documents of 1095, 1014, 1024, 1101.[2] The first and third make a fine of sixty shillings payable for the breach of *Burgbann*; the second limits the imposition of a fine of this amount to *publicæ civitates*; the fourth calls it *jus civile*. But none of these necessarily connect the peace of the town with a fortress-peace of the king. By this time *Burgbann* might very well have meant nothing but town law.

As to the *Ortsgemeinde*, it is curious to observe how Dr. Keutgen (in this respect again following von Below) assumes his major premise. The *Landgemeinde* was 'autonomous,' 'self-determining,' and had such and such *Befugnisse* (competence). The town community was likewise autonomous, and had a like competence. Therefore, the town community could have been nothing originally but a *Landgemeinde*. But, if putting on one side the whole question of serfdom and relation to a lord—we look up the examples of the competence of the *Landgemeinde* (e.g. in the matter of protection against fire, building regulations, &c.), for which Dr. Keutgen refers to von Maurer, we find that they are all drawn from *Weisthümer* (records of custom) of the sixteenth, seventeenth,

[1] *Untersuchungen*, p. 218: 'Man sieht wie in einer aus Dorf- und Marktansiedelung zusammengewachsenen Stadtgemeinde die gewöhnheitsrechtlichen Befugnisse der Kaufleute zu den ähnlichen der autonomen Landgemeinde hinzu kamen, um zusammen den Ursprung der städtischen Verwaltungsthätigkeit zu bilden.'

[2] *Ibid.* p. 57 seq.

eighteenth, and even nineteenth centuries.[1] From what one knows of village life one may be pretty sure that such powers were not exercised in the Middle Ages. There can hardly be a doubt that these *Befugnisse* of the *Landgemeinde* were belated imitations of town practices, and not their source.[2]

VII

The reader who shall have made his way through the preceding abstracts will probably experience a feeling of bewilderment, for which he may be inclined to blame the writer. It would, no doubt, have been possible to arrange an account of the recent literature of the subject in a different manner—to present the chief proposed solutions of the main problems involved, and state the attitude of the various writers to each in a form admitting of easier comparison. But such a presentation would have given little idea of the way in which each writer really approached the subject. The differences in emphasis, the differences in the number and grouping of the several factors recognised, are at least as interesting as positive statements, when we have to do with essays in construction all more or less eclectic in their character.

It would be rash to attempt to judge between the rival theories thus offered to the inquiring economist by historians and lawyers. The battle must be fought out by the specialists themselves. Yet there are some fundamental questions which even an outsider may press upon the attention of those immediately engaged in the discussion.

First, then, as to the *Landgemeinde*, the *Ortsgemeinde*, the

[1] Maurer, *Geschichte der Dorfverfassung*, ii. 11 seq.

[2] Since writing the above, I have noticed the remark of Schröder, *Deutsche Rechtsgeschichte* (2nd ed.), p. 603: 'Die politische Befugnisse der Landgemeinden waren zu spärlich und sind wohl auch zu spät zur Anerkennung gelangt, als dass sie schon bei der Ausbildung der ältesten Stadtverfassungen hätten in Gewicht fallen können.'

rural township or village. That many towns grew out of villages, the agricultural character of the interests of the smaller towns of the Middle Ages, and the survival of agricultural usages and manorial burdens similar to those in rural manors, would seem clearly enough to indicate. But why should we suppose all towns to have so arisen? Make the breach between the Roman and the mediæval world as great as we please, is it not allowable to think of the majority of the inhabitants of the 'old cities' of M. Flach, the *Römerstädte* of the German writers, as all along different in their daily occupations from the men of a country manor? And, limiting our attention to those towns which did spring from rural townships or combinations of townships, the question ought to be faced whether there is any positive evidence at all for the existence of free, 'autonomous,' 'self-determining' townships in the period of the rise of the towns. Accept, if you will, the view that the lord was a comparatively recent usurper: still, there he was at that time. And, if so, is it well so completely to disregard him as such writers as von Below and Varges and Keutgen in effect do? But, if he is to be counted with, then the difference between the *Landgemeinde* view and the *Hof-system* theory of Nitzsch need not be so very great, after all. The difference would then simply resolve itself into this: that Nitzsch had in his mind the great masses of dependents, most of them not engaged in agriculture, at the large seigneurial establishments, while with the *Landgemeinde* we begin with a small body of dependents, all of them engaged in agriculture, on a rural estate.[1]

The other part of the subject on which an economist might venture to dwell is the much-vexed question of the relation of the 'merchant' to the 'craftsman,' with which is closely connected the doubt as to the original meaning of *mercator* and *Kaufmann*. Concerning the significance of these terms there is an amusing difference of opinion. Some understand thereby any one who ever had any occasion to

[1] [Cf. *infra*, p. 221.]

buy and sell in a town,[1] or, indeed, all who had *the right* to buy and sell—i.e. *all* the townsfolk; and this is thought to be confirmed by the use of 'mercatores' and 'burgenses' as synonymous in many early charters. Others regard the 'mercator' as a professional trader, like the trader of to-day—though his operations might frequently be very small—and explain the use of *mercatores, negotiatores, institores,* for *burgenses,* as the result of their prominence and their peculiar association with town life. It must be said that the particular bit of evidence which now seems to lead many scholars to accept the widest possible interpretation is singularly weak for such a superstructure. In a charter granted by the abbot of Reichenau to the peasants of Allensbach in 1075 occurs the phrase, 'Omnibus oppidi villanis mercandi potestatem concessimus, ut ipsi et eorum posteri sint mercatores.' This is usually interpreted to mean that the grant in some sense or other actually turned the *villani* into *mercatores.* But why can we not regard it as the expression of a hope? Dr. Keutgen well points to definitions such as 'mercatores qui causa negotiandi vadunt et redeunt'[2] as showing that 'merchants' were distinguished from persons who stayed at home and occasionally sold their own produce. Moreover, no one seems to deny that the 'mercator' of Carlovingian times was a wandering professional trader; and it would be strange indeed if the word afterwards underwent so complete a change of meaning as to rob it of almost all economic significance.

Whatever else they may think of the meaning of *mercatores,* most writers have no difficulty in believing that at

[1] Bücher, in his *Entstehung der Volkswirthschaft,* p. 47, *n.,* is particularly wroth with those who would make *mercator* into a 'Berufs-Kaufmann.' He understands thereby 'jeder der mit seiner Waare zu Markte stand.' Indeed, his etymological observation—'Das hervorstehendste Merkmal des Berufs-Kaufmanns in seiner Verhältniss zum Publicum ist nicht seine Gewohnheit zu kaufen sondern zu *verkaufen.* Und doch ist der mittelälterliche "Kaufmann" nach dem *Kaufen* benannt!'—would seem to extend the designation to any one who ever *bought* anything. It is a pity he cannot propose a like etymological interpretation of 'mercator.'

[2] *Untersuchungen,* p. 190, n.

first it included *craftsmen*. Suppose we allow that it included all who had frequent occasion to buy and sell. Did the earliest craftsmen have occasion to buy and sell? M. Pirenne, as we have seen, thinks they did; that later they became mere wage-earners, and then ceased to buy materials or sell finished goods, and so needed no longer to belong to the merchant gild. It must be confessed that there is something in the economic condition of M. Pirenne's own country, Flanders, in the fourteenth century to lend some colour to this explanation. The crowds of weavers and fullers and dyers of Ghent have always seemed rather hard to fit into 'the gild system' framework.[1] But elsewhere, surely, the movement of things was just the reverse of what M. Pirenne supposes. The latest investigations into industrial history are rendering it clear that the mediæval artisan worked at first on the materials of an individual customer, often at the customer's own house. Indeed, down to the close of the Middle Ages and long after, scores of craftsmen never bought materials nor had wares to sell. Nevertheless, after a time, many, if not most, artisans did come to manufacture wares for the general market out of their own materials. That this produced friction with the merchant gild, both in England and Scotland, we have good reason for believing, and the play of economic forces on the Continent could hardly have been essentially different. May not the key to some difficulties in mediæval economic, and therefore in mediæval constitutional, history be found in the probability that it was only *as* and *when* craftsmen desired to dispense with intermediaries in their buying and selling that any antagonism would arise between merchants and craftsmen as such?[2]

Reviewing the discussion as a whole, with all its fine-drawn distinctions, the economist will perhaps arrive at the paradoxical conclusion that what is first of all necessary is that distinctions should still further be drawn, and one in particular. It is one of the chief services of von Below that he has impressed upon us the necessity of separating the

[1] [See now *infra*, p. 240.] [2] [Cf. *infra*, p. 226.]

question of the forces which led to constitutional change—one often of economic history—from the question of the structure and derivation of the constitutional forms themselves, which is one of legal or constitutional history.[1] But we must go further, and distinguish provisionally between the *town* (*Stadt, ville*) as a legal conception and the *town* as an economic conception. Usually, the two meet. What was economically a town was, as a rule, legally (or constitutionally) a town. But it was not necessarily nor universally so. And the discussion on both issues really turns, in large measure, on a question of definition. What shall we agree to call a 'town' economically, what constitutionally? Until we have come to some common understanding on these points, there is always the danger of arguing in a circle.

These preliminary notions having been cleared up, the work of historical construction can safely begin. And in this, in spite of the example to the contrary of all the four scholars we have here been following, the path of safety would seem to lie in a rigid observance of chronological limitations. To leap, as some writers do, from a document of A.D. 900 to one of A.D. 1350 is certainly dangerous. Not that there is no weight in the argument that the conditions within small towns in later times must have resembled those, centuries before, in what afterwards became great towns, because 'every town was once small.'[2] It is very probable that there was something like a natural evolution of town life, whereof the early stages are concealed from us, in the case of the greater towns, by our lack of evidence, but fully revealed in the later and smaller. Yet it is clear that the men of later centuries must have lived in an atmosphere of ideas to which the earlier development of the larger towns

[1] *Stadtverfassung*, p. 12. Von Below hardly, perhaps, recognises that, while this distinction is useful, and indeed essential for clearness of thought, the answer to the one question has commonly a very direct bearing on the answer to the other.

[2] Von Below, *Stadtverfassung*, p. 4 ; *Stadtgemeinde*, p. 114.

had already given rise, and these ideas must have influenced their action. Until, then, the main lines of the earlier history have been retraced from contemporary sources,[1] it will be wise to observe a self-denying ordinance in the matter of using later documents.

[1] [This task will be facilitated for the future by the convenient collection, edited by Dr. Keutgen, of *Urkunden zur deutschen städtischen Verfassungsgeschichte*, 1899.]

[Addendum.—Some useful material for the history of English towns will be found in the volume of Norwich Leet Rolls, edited by Mr. Hudson for the Selden Society, 1891. It there appears that but a very small proportion of the 'capital pledges' who represented their tithings in 1288 were 'cives' in the contemporary Norwich use of the term. The presentment to the Leet Court as unlawful of the gilds of tanners, saddlers, fullers, and cobblers furnishes us also with some of the reasons why such associations were disliked by the municipal authorities. It would seem that the gild of tanners offended in some way in its purchase of hides. For further observations on the significance of this evidence, see my review in the *Economic Journal*, v. 253.]

PROFESSOR GROSS'S 'GILD MERCHANT'[1]

Dr. Gross's treatise on the *Gild Merchant* is an exhilarating example of the growing internationalism in historico-economic studies. A graduate of one of the younger American universities, Mr. Gross went to Germany and took for the subject of his doctoral dissertation an obscure point in the earlier municipal history of England. He then devoted several years to the patient examination of English archives; the Oxford University Press undertook the publication of the results of his labours; and Dr. Gross has returned to America, to teach history at Harvard. But apart from this, Dr. Gross's book is significant in another way. It deals almost exclusively with the *institutional* as opposed to the economic or social side of its subject; and although such a treatment is apt to be chilling to the general reader, it is certainly the right thing just now. For what has economic or social history usually meant hitherto? It has meant either statistics about wages and prices, or picturesque details about the cut of our ancestors' clothes and the like. Such facts are very useful when we have an institutional framework to fit them into. But we want to know first what exactly were the relative numbers, the legal position, the usual duties, rights, and burdens, of the various classes of the population. When we know this, we can then find a meaning for such and such a price, or such and such

[1] [*The Gild Merchant.* A Contribution to British Municipal History. By Charles Gross, Ph.D. (1890.) Reviewed in the *Political Science Quarterly*, September 1891.]

a local custom. Institutional history is the bony framework of economic history.

Our debt to Dr. Gross is hard to realise, because his main results had found their way into economic writing even before the publication of his recent treatise. His conclusions as here formulated do not differ substantially from those in his German dissertation of 1883, in spite of the abundance of hitherto unprinted material which he now appends to them. Moreover, during the three or four years that the present treatise has been in the press, Dr. Gross, with self-sacrificing courtesy, has allowed copies of the proof to pass into the hands of brother scholars, whose writings have benefited accordingly. Some of us had begun to take his main results for granted and almost to forget that Dr. Gross had never yet received the public recognition which his labours deserved. For he has done great things. He has been the first to show that the gild merchant is a characteristic feature in the early history of almost all English towns. Almost without knowing it, and with the greatest anxiety not to speak in general terms, he has forced upon us the recognition of a stage in English economic development which had before been almost entirely disregarded. That is Dr. Gross's substantial achievement; and much as it may be necessary to supplement, or even in minor matters to correct, his conclusions, his name will henceforth be as indissolubly associated with the gild merchant, as that of Mr. Rogers with mediæval prices and that of Mr. Seebohm with mediæval land tenure. Nor is that all: he has definitely established the distinction between gild and borough, and has shown more exactly than ever before wherein the influence of the gild upon the municipal constitution really consisted. And on a score of other matters connected with his subject, he has either cast entirely new light or added greatly to the knowledge we already possessed. To mention only those which happen especially to interest the present writer: the 'companies of merchants' of the sixteenth and seventeenth centuries, the 'common town bargains,' the organisation of the home staples, and above all the 'affiliation' of mediæval

boroughs—these are all subjects wherein Dr. Gross has rendered possible a distinct advance in the construction of economic history.

I have, however, indicated above that I hardly think even Dr. Gross has said the final word on all parts of his theme. The particular part of it which is still, to my mind, obscure is the relation of the gild merchant to the craft gilds. That Professor Brentano has led people to think there was a 'general struggle' throughout England between the gild merchant and the craft gilds is, in the eyes of Dr. Gross, one of the gravest faults of that arch-sinner. I may, perhaps, in passing, venture to put in a word of humble remonstrance against the somewhat excessive insistence on Brentano's real or imaginary faults. Granted that Brentano's essay of 1868 has abundant defects, and that it has led astray most subsequent English writers, it must still be remembered that its author was but twenty-three when he wrote it. What we have more right to be indignant about is that the study of social history should have been so dead in England that for years no one thought of going to the sources for himself. And as to craft gilds, it is not so clear after all that Brentano is entirely wrong. Suppose we strip his account of its slightly melodramatic phraseology. Suppose we recognise that the craft gilds which were organised in the fourteenth century had scarcely any 'autonomy,' and that when and where they did get a share in municipal government, their victory was hardly 'democratic,' since the gilds themselves had by that time become exclusive. Granting all this—is there not antecedent probability, and some apparent evidence, that when the *earlier* craft gilds made their appearance, in the twelfth and thirteenth centuries, there was a good deal of friction between them and the groups of citizens who governed the towns and monopolised their trade? It is true that the evidence refers only to the weavers, fullers, and dyers; and it has been ingeniously suggested that the disabilities under which these craftsmen undoubtedly suffered in certain English towns may be explained by the supposition that they were 'intruding aliens.' But there is scanty ground for such

an hypothesis. The more natural explanation is that collisions occurred in these particular cases because it was in the manufacture of cloth that a considerable body of artisans first came into existence. We may allow that English craftsmen were not 'as a class,' at any rate at first, excluded from the merchant gild or from burghal franchises;[1] that is, that they would not be excluded *because* they were craftsmen. But the question is: Could they fulfil the conditions necessary for admission? Although neighbouring landowners, or other persons living outside the town, were frequently admitted to the gild merchant, the gild was primarily an association of, or among, the burgesses of each particular place. But burgess-ship was bound up with the possession of a burgage tenement. Suppose, as might very well happen, that a weaver had no such tenement, would he be admitted? Would David the dyer, who paid a mark in the second year of King John that his messuage in Carlisle 'might be a burgage,'[2] have been admitted to the gild merchant of Carlisle, when it was not yet a burgage? Dr. Gross indeed makes the remarkable statement that 'the gildsmen were *generally* "non feoffati."'[3] If he means that they did not hold land, this leads to the conclusion that they were *generally* not burgesses! For this assertion he gives three pieces of evidence. One of these, from a modern history of Lyme Regis, I am unable to examine. But the other two are from his own second volume.[4] The first is a list of members of the Barnstaple gild, in which 92 names are superscribed 'de *forinsecis* non feoffatis,' and 110 superscribed 'de intrinsecis et feoffatis.' The second is a passage[5] from a 'verdict' of the Totnes jurors in 1255 to the effect that every merchant in the merchant gild 'non habens tenementum in Totton' must make an (additional?) annual payment of six pence, 'et cum tenementum perquisierit quietus erit de predicto redditu.' As burgage tenure was a condition of citizenship, so it was almost certainly, *for persons who lived in the town*, one of the prerequisites for membership of the gild merchant.

[1] *The Gild Merchant*, i. 109, 214.
[2] *Ibid.* i. 71, *n* 3.
[3] i. 72.
[4] P. 13.
[5] P. 236.

Another question suggests itself. Admission to the gild merchant was dependent upon the payment of certain 'initiation fees.' Dr. Gross charitably conjectures that the charge was proportionate to the means of the new member. But in the only clear and detailed gild rolls which he has been able to print, those of Andover (1279–1348), the usual entrance fee for one who was not the son or husband of a member was sixty shillings.[1] Very few craftsmen at this period owned property worth one-half as much as that, to judge from the Colchester assessments printed in Dowell's 'Taxation.' Elsewhere the fee may have been much lower; but a fee there was everywhere. Dr. Gross remarks that 'it is necessary to emphasise the fact that craftsmen were freely admitted to the gild in the twelfth, thirteenth, and fourteenth centuries.'[2] But the references he gives do not actually prove anything more than this, that several craftsmen are found as members in various places. This does not show that craftsmen were, *as a rule*, members. The probability is that the entrance fee, of itself, would keep many of them out.

But if we concede the probability that in some of the towns there were many craftsmen who, for one reason or another, could not get into the merchant gild, is it not also probable that they would come into conflict with the claim of its members to a monopoly of trade? Take the case of the weavers: were they to be allowed to sell their cloth to whomsoever they pleased, or only to the gild members? In one of his later 'Additions,'[3] Dr. Gross allows that 'on the continent the merchants seem to have oppressed the weavers and fullers because these artisans competed with them in the cloth trade,' and adds: 'This may help to explain similar oppressions in English towns.' But here he concedes one half of my case, and surrenders the far-fetched explanation about 'alien intruders.'[4]

As to the other half of the case—the contention that the craftsmen in general, and those employed in the manufacture of cloth in particular, were for some time, as a matter of fact, usually devoid of burgess-rights—this is closely bound up

[1] *The Gild Merchant*, ii. 289–320 *passim*.
[2] *Ibid.* i. 107.
[3] i. p. xix.
[4] i. p. 108.

with the question of burgage tenure, to which I have already alluded. In any case, the entry in the London 'Book of Customs,' concerning the weavers and fullers of Winchester, Marlborough, Oxford, and Beverley; the express declaration of the magistrates of Lincoln, in the year 1209, that the fullers had no community (of rights) with the free citizens; and the readiness of the 'cives' of London, in 1202, to bribe the king to destroy the weavers' gild—are all facts which wait for an explanation. And in seeking for such an explanation, if continental analogy is not to be pressed, it is also not to be disregarded. When we find that there were conflicts between the crafts and the governing bodies of the towns in all the countries with which England was most closely connected; in the towns just across the Channel which belonged to the Hanse of London; in the towns of the Teutonic Hanse; in the towns of Scotland, which modelled their constitution largely on that of Newcastle, as Newcastle modelled itself on Winchester [1]—is it going too far to say that the burden of proof lies upon those who maintain that the occasional references to apparently similar difficulties in England do not mean what, on the face of them, they seem to mean? The friction was certainly not so great in England, and it was earlier overcome: it was hardly altogether absent.

Without pursuing the argument further, I may send a parting shot and carry the war into Dr. Gross's camp by the remark that even so rigorous an adherent of 'sources' as he is may sometimes be carried off his feet by preconceived ideas. Thus his assertions—surely important ones—that the craftsmen, even when associated in separate gilds of each occupation, still remained in the common gild merchant,[2] and that this common gild merchant was afterwards 'resolved into' the two classes of misteries, mercantile and artisan,[3] are accompanied by none of those impressive notes which are wont to support his statements. They seem to approach, not distantly, those 'unproved assumptions' for which Professor Brentano is so justly rebuked.

[1] *The Gild Merchant*, i. 257. [2] i. 115. [3] P. 127.

PROFESSOR VON BELOW'S TRACTATES[1]

Some four or five years ago there appeared in the 'Historische Zeitschrift' a couple of articles by a writer hitherto little known outside his immediate circle, Dr. Georg von Below, upon the rise of the town constitution of mediæval Germany ('Zur Entstehung der deutschen Stadtverfassung'), followed speedily by a thin volume on the rise of the civic community ('Die Entstehung der deutschen Stadtgemeinde').

For some time before, historical work in this field had taken the direction of minute investigation concerning particular towns: Dr. von Below's writings would have attracted attention if only because they attempted to survey the whole of Germany and to state conclusions of general validity. He has, moreover, the gift of clear and concise expression; and the power, which is always so fascinating, of drawing sharp distinctions. But all these causes would have been insufficient to secure for Dr. von Below quite the amount of attention he has received. A further characteristic has to be mentioned—the employment of language of extraordinary virulence, ranging from scoffing irony and outspoken contempt to unseemly vituperation.

The publication of Dr. von Below's essays has been followed by a torrent of controversial pamphlets and reviews.

[1] [*Der Ursprung der deutschen Stadtverfassung*, by Dr. Georg von Below (1892). *Untersuchungen zur Geschichte der Kaufmannsgilden des Mittelalters*, by Dr. Alfred Doren: in Schmoller's *Forschungen*, XII. 2 (1893). Reviewed in the *Economic Journal*, iv. 270, 1894.]

A dozen or more scholars every year send one or two fresh contributions to the pile of new 'literature.' There are not only divers 'schools,' swearing by their several masters, von Maurer, Nitzsch, Gierke, Sohm; there are different points of view, that of the legal historian, that of the constitutional historian, and that of the economic historian; and the lawyer, who has hitherto had almost a monopoly of the subject, can hardly conceal his contempt for the economist. To make confusion worse confounded, after Dr. von Below had, as he thought, removed all competing theories to make room for his own, the distinguished jurist, Professor Sohm, unexpectedly stepped in, and, with language of high regard for the younger scholar, proceeded to seize the ground which he had prepared, and to build upon it a very different sort of edifice equally objectionable to Dr. von Below. It is now *Belovius contra Mundum*; while his antagonists also have to turn aside from time to time to spar among themselves.

Two of the latest and most important of these publications are now before us. The reviewer sets about criticising them with trepidation. For either he will seem to imply his acceptance of one of the several competing theories, and in this case he will be set down as an 'Anhänger' of a particular master and school, and have to bear the burden of all that school's defects; or else he will be of opinion that no one theory is adequate by itself, and then he will be visited with contempt for his want of discrimination. Dr. von Below warns us that only those can be presumed to have a real interest in inquiries touching constitutional history who feel 'joy in juristic distinctions.'[1]

It must be allowed, however, that even the mere economist can hardly fail to take pleasure in the sharp and clear-cut distinctions which Dr. von Below draws in the present work. If it is the fault of German scholars to distinguish overmuch, it is perhaps the fault of English scholars not to distinguish enough. Even if we ultimately find that our explanation must be of the nature of a synthesis, we shall

[1] *Ursprung*, p. xii.

the better understand the character of the elements which go to make up the whole if we begin by analysis. But allowing that in this respect the economic historian must go to school to the lawyer, we must add that the lawyer has often himself to learn the lesson that his task is incomplete until he has made the attempt to form for himself a mental picture of the conditions which his terms denote. That he hardly attempts to do so is a defect in the work of Dr. von Below, as it is a defect in that of the scholar with whom he is most in accord, Professor Hegel.

Dr. von Below maintains that the origin of the town is to be found in the 'Landgemeinde' or 'Ortsgemeinde;' a view which seems to be identical with the belief of Dr. Stubbs that 'towns were originally no more than large townships or collections of townships, whose constitution cannot be shown to have differed from the general type of the ancient village.'[1] It is true that Dr. Stubbs profoundly, though insensibly, modifies this conclusion by his insistence on the hundred jurisdiction, an element absent from Dr. von Below's theory; nevertheless both writers agree in laying the greatest stress on the same institution as the germ of the later town. The main purpose of Dr. von Below's last book is to defend this thesis against the theory of Professor Sohm, who regards the town constitution as the result of the establishment of a market and therewith of a market-tribunal. He has quite overthrown, he supposes, the view that the town constitution arose out of 'Hofrecht,' or, as we should say, the manorial organisation. Yet he turns in passing to deal a further blow at the manorial theory; and it is here that we may venture to make our first observation. Just as Dr. Stubbs has remarked that the English towns, though they had their origin in the township, had it 'generally in the *dependent* township which acquired wealth and solidity under the protection of a great earl or bishop, or of the king himself;'[2] so Dr. von Below recognises that 'most German *Gemeinden* (communes, townships) were,

[1] *Const. Hist.* i. 438, cf. 99. [2] *Ibid.* i. 442.

at the time of the rise of the towns, dependent upon a *Grundherr* (landlord).' 'This dependence did not go so far, he declares, 'as to amount to absorption'—whatever that may mean. 'But the *Gemeindeherr* (lord of the township) had succeeded in securing recognition of his superior property rights over the common lands, in laying various burdens on the members of the township, and in making the passing of by-laws and the appointment of officers dependent upon his approval.'[1] The phrase 'succeeded in securing,' &c. (*war es . . . gelungen . . . . geltend zu machen*), is of course a trace of the author's acceptance of the Mark or Original Free Village Community theory. But that is not really in question just now; the point to observe is that *when* the towns arose the townships were as a rule—I should be inclined to ask for any case where they were *not*—in dependence upon lords, however that condition of things may have come about. But when once this is perceived, the question arises whether the township theory is after all so far removed from the manorial theory. It is not necessary to follow Nitzsch, either in supposing that the baronial retinues (*ministeriales*) constituted an important part of the burgess body, or that the burgesses were originally all serfs, or even that the later craftsmen were originally all the serfs of the town lord; each of these positions may be surrendered without surrendering the idea that the towns grew out of—at any rate geographically—groups of persons subject to a *Hofgericht*, or, as we should say, out of manors. Indeed the question is pertinent what we really know of any *Landgemeinde* not subject to manorial jurisdiction, at the epoch of the rise of the towns. It is significant that Dr. von Below, to prove township control of weights and measures, has to rely on the records of customs (*Weistümer*) made 'in the later centuries of the middle ages and the beginning of modern times.'[2] 'There exists no older information as to the competency of the *Landgemeinden*.' He thinks 'we can without hesitation date back from these to earlier times.'

[1] *Ursprung*, p. 41.

[2] *Ibid.* p. 61.

Perhaps we may for weights and measures; but for other and more vital matters that is a dangerous procedure.

The main purpose of the book, to show the untenableness of Professor Sohm's theory as to market rights, is one with which it is more possible to be in complete accord. The present writer has already pointed out in another place [1] the extremely artificial character of Professor Sohm's line of argument. Even the proposition that the market was the one essential factor which made the town—apart from Professor Sohm's views as to the *origin* of the market jurisdiction, which is clearly separable from it—is one which, as Dr. von Below clearly shows, cannot be maintained. In England, as we know from Dr. Gross's treatise, the control of the market fell into the hands of the merchant gild, and the merchant gild legally and constitutionally was distinct from the town community. But when that is said, the question still remains to what extent trade and traders, whether specially organised or not, contributed to create the characteristic features of mediæval town life. Granting that the towns grew out of the earlier local groupings—whether we call them 'villages,' 'townships,' or 'manors' matters little, for there is hardly any dispute as to what the state of affairs in the country actually was—yet the towns were something more than townships or manors; and the question is, what was it made them more? Many things—fortification, privileges as to taxation, separate jurisdiction, a market; but is it not probable that the market (or the existence of a body of traders) was the most important of these, and to a large extent the reason why the rest of them were secured? Dr. von Below remarks, and it is of the utmost importance, that it is necessary to distinguish the question of the *impelling motive* which caused a constitutional change, and that of the *organisation* which the innovation affected, and out of which the new institution arose. The latter, he says, is a question of constitutional history, the former of economic history.[2] This is a distinction which it is essential to keep

[1] *English Historical Review*, vii. 340.

[2] *Ursprung*, p. 12.

in mind in the progress of an investigation. But when we come to sum up at the end, and speak of the *origin* (*Ursprung*, *Entstehung*, &c.) of the town system, are we to lay stress only on the answer to one of these questions? This seems Dr. von Below's practice. Yet, to construct an edifice, it is not enough to have a foundation; something must be done with it. 'Origin' suggests a process as well as a starting-point; and in that process, as Dr. Doren remarks, there were 'both active and passive elements.'[1]

The work of Dr. Doren just mentioned is one of that valuable series of investigations which owes its origin to the inspiration of Professor Schmoller's Berlin 'Seminar.' It is rather a review of the literature of the subject than a really independent treatment of it; but as an introduction to the discussion it will be extremely useful, and it abounds in suggestive remarks by the way. First comes a chapter on the origin of the Germanic gild system in general; then one on mediæval trade and traders; then a review—and this will be extremely convenient to readers outside Germany—of recent investigations into the history of eight German and two French towns: then a renewed survey of the whole field, laying especial stress upon the economic elements involved; and finally an appendix of tables and documents. As to the 'origin' of the town constitution, Dr. Doren has ventured on a theory of his own which appears to be a combination of the teaching of Professor Sohm with some suggestions from Dr. Inama-Sternegg's 'Wirthschaftsgeschichte;' he makes it due to 'a combination of the customary privileges of travelling merchants, and the privileges of the local market.'[2] But granting that these two elements coalesced—and to the present writer they seem rather to belong to different stages in the evolution—and supposing they were of great importance, Dr. Doren's view would seem to err almost as much as Dr. von Below's in laying emphasis only on one set of factors; for if these were, to

[1] *Kaufmannsgilden*, p. 25, n.

[2] *Ibid.* p. 32.

use his own phraseology, the 'active' factors, what were the 'passive'? Or, in other words, if the action of these forces made the town out of something, what was that something? Dr. Doren seems to cast Dr. von Below's argument as to the survival of certain traits of the old agricultural group rather too lightly aside.

In tracing the later progress of events, the economic characteristics of the activity of the merchant gild, and the causes of the marked differences between England, France, and Germany, Dr. Doren is more satisfactory; and his book ought to be looked at by every one who wants to know how far England pursued a movement of her own, and how far she shared in the greater currents of social life which swept over the whole of Western Europe. To call attention to half the points of interest would involve the writing of another pamphlet; but there is perhaps space to call attention to one. It will be remembered that in reaction against Professor Brentano's somewhat lurid picture of a struggle between merchant and craft gilds in England, Dr. Gross has maintained that the craftsmen were at first themselves members of the merchant gild. It has been urged as against this latter view that to prove that *some* craftsmen were members of the merchant gild is not the same as proving that *all* craftsmen were members: that the merchant gild, though it extended its membership frequently to persons outside the town, was primarily an association of *burgesses* of a particular town, so that to become a member it would be necessary in the case of an inhabitant that he should first be a citizen; and that it was the general rule that the possession of a burgage-holding was the prerequisite of citizenship; so that we need not be surprised if some craftsmen, being burgage-holders, and therefore citizens, became members of the merchant gild, and others, perhaps more, not having such holdings, remained outside. All this argument is more than confirmed by Dr. von Below's insistence on the holding of land as originally the condition of citizenship in Germany, and upon the way in which in various towns craftsmen could acquire citizenship precisely

because they could hold land ;[1] though he hardly sees just how far the proposition carries him. And now comes Dr. Doren, and by comparing his criticism of Dr. Gross's book with his criticism of Nitzsch, another important element in the problem presents itself. It had already been seen that in the monopoly of trade which the gild merchant obtained lay the danger of a serious conflict of interests with any craftsmen there might happen to be outside the gild ; and this opinion Dr. Doren more than confirms.[2] But we have probably been led astray by an impression that craftsmen sold 'wares' to the general public earlier than they did. As Professor Schmoller and others have recently pointed out, the craftsmen at first worked chiefly in the houses, or at the immediate order, of a customer or employer—he may be called either—who provided the material. So long as they did not bring goods to market they would not need to become members of the merchant gild. It was only as and when the craftsmen began to desire to bring wares to market that the privileges of the merchant gild would create friction. As Dr. Doren points out[3] it would only be the exceptional and richer craftsmen who would at first manufacture for the general public, and these would probably be already owners of tenements and therefore burghers. It would not be until *many* craftsmen sought to sell finished wares or to buy their own raw material, and found entry to the merchant gild difficult, that collisions would arise.

[1] *Ursprung*, pp. 46–47. [2] *Kaufmannsgilden*, p. 150.
[3] *Ibid.* p. 133.

MRS. GREEN'S 'TOWN LIFE IN THE FIFTEENTH CENTURY'[1]

Now that so much interest is being taken in social history, there is sure to be a ready welcome for a book which describes the internal life of English towns at the period of their greatest power; especially when that book appears in two comely volumes with the impress of a great publisher, and the reader need only open it to come upon analogies or contrasts to present-day conditions stated in language pointed and highly coloured. The name which the authoress bears; the dedication of her work to the memory of the author of the 'History of the English People;' the statement in the preface that it was undertaken in fulfilment of a promise made to him when his work was over—these circumstances all help to make the welcome warmer, for, to most of those who care for English history, John Richard Green is a cherished name. Starting, perhaps, with some irritation against the 'stylist' whose success for the time threw his masters into the shade, they have come to feel something like a personal affection for that transparent soul who struggled so hard against such odds, and did so much to make the 'island story' dear to all English-speaking people. They rejoice to see that name once more coupled, by one who bears it, with worthy achievements.

And, indeed, this book of Mrs. Green's deserves a good deal more than a *succès d'estime*. In the first place, it is the

[1] [*Town Life in the Fifteenth Century*, by Mrs. J. R. Green. (1894.) Reviewed in the *Nation*, May 24, 1894.]

result of arduous labours which have probably occupied several years; though possibly her readers will hardly realise how much the way had been smoothed by earlier scholars, especially Schanz and Gross. And then, secondly, several of the chapters, especially those on the 'Battle for Freedom' and 'The Battle for Supremacy,' deal, and, on the whole, deal effectively, with topics hitherto strangely disregarded by English writers, though their importance for continental towns has long been recognised by foreign scholars. The contrasted fortunes of towns upon the royal demesne and of towns upon baronial or church estates in their efforts to secure municipal self-government, and the difficulties with which municipalities had to struggle which were confronted with rival jurisdictions within their walls, are here for the first time emphatically set forth. To the serious student of municipal history, in particular, the book will serve as a stimulant—if only to controversy; and even that would be an agreeable exchange for the isolation which has usually been the fate of workers in this field. It will serve also as an indication of the material at his disposal.

Still, it must be confessed that, in spite of its high purpose and popular language, the book is often not a little wearisome. This is in part the fault of its style, which is a curiously faithful echo of the style of John Richard Green. Even in the hands of its creator, that style, with its perpetual effort after picturesqueness and emphasis, was apt to become a little trying to the nerves. The 'Short History' was saved by the very breadth of the space to be covered and the compression which fortunately formed part of its plan. Rapid movement was necessary, and this carried us safely over the epithets, not to mention that in a thousand years of history there were occasions to which a large proportion of the glittering adjectives and resonant verbs could be fitly applied. But the case is different when the same style is applied in eight hundred pages to such a subject as the fifteenth-century borough. A brief, broadly generalised statement of the movement of town life during the hundred years could be made interesting to a reflecting

mind; an episode here and there might even be found to have dramatic quality; but we may be tolerably certain that a true statement of the minutiæ of the municipal history of any century—the fifteenth as well as the nineteenth—must be pretty dull, if for no other reason than that human affairs are intricate, and that intricacy is seldom obviously interesting. And the writer who attempts to make every page sparkling is pretty sure to pay the penalty. So has it been with Mrs. Green. Again and again we come upon the most startling inconsistencies; and in almost every case the explanation is that the temptation to say a 'strong' thing—to use 'utterly' and 'altogether' and 'completely,' to talk of 'a struggle for life' and 'the drain of taxation,' to exult over 'buoyant and exuberant strength' or to lament over 'dreary groups seething with inarticulate discontent'—has been too much for sober judgment.

Yet the book is not sufficiently inconsistent to be impartial; and this brings us to an even graver defect. The impression which as a whole it produces is that of panegyric alternating with special pleading. The keynote is struck in the preface, where we are reminded that Mr. Green's own 'brilliant sketch of the early life of English towns' was 'inspired by ardent sympathy and emotion.' Mrs. Green evidently aspires to continue his work. But until we are pretty certain of the fundamental facts and relations, 'ardent sympathy and emotion' are precisely the qualities most in the way. The reason why the student of physical science only too often despises history is just this—that it has been written with 'emotion.' Even Mrs. Green would agree that the accounts hitherto given of *other* mediæval institutions—for instance, of the Church—are largely vitiated by 'sympathy.' When she herself comes to treat of the labour question and the crafts and the gild merchant, in her second volume, she confesses that there is much that is still obscure. Would it not be well to keep our feelings well in hand until we have more light? As it is, the reader who goes to these volumes must be prepared to find the boroughs always in the right, whether in their difficulties with the royal

government, the church, or the crafts. To all these powers the meanest motives are freely attributed. And yet, when we reflect that royal administration, church, and crafts all indubitably contributed valuable elements to progress, and that the lot of those countries, like Germany, where the towns gained more of their own way, was not altogether satisfactory, we cannot help feeling that such partisanship is no safe guide.

PROFESSOR MAITLAND'S 'TOWNSHIP AND BOROUGH'[1]

The Mr. Ford who, eight and twenty years ago, left a quite insufficient sum of money to found a 'professorship' of English history at Oxford, built better than he knew; for a benevolent Court of Chancery has not scrupled to listen to Oxford's representations, and has permitted the application of the endowment to a far wiser purpose—to the establishment of an annual lectureship which will doubtless bring to the University, year after year, some of the most distinguished historical scholars of the time. As the first-fruits of the Ford foundation we have already had Mr. Gardiner's 'Cromwell's Place in History;' and now the series is worthily continued by a work of a quite different sort, Professor Maitland's lectures on the beginnings of English town history, illustrated by the antiquities of his own borough, Cambridge. To a university where, since the departure of Dr. Stubbs, English institutional history has been comparatively little investigated, though taught to increasing crowds of undergraduate students, comes the representative of a sister university, who has cast more fresh light on the subject than any of his contemporaries, but who finds at home comparatively few undergraduates to listen to him.

[1] [*Township and Borough*: Being the Ford Lectures delivered in the University of Oxford in the October term of 1897. By Frederic William Maitland, LL.D., Downing Professor of the Laws of England in the University of Cambridge. (1898.) Reviewed in the *Nation*, June 30, 1898.]

The present set of lectures forms a supplement to the chapter on the Boroughs in Professor Maitland's recent and substantial treatise, 'Domesday Book and Beyond.' It contains, probably, no idea that is absolutely new to the careful readers of that book. Mr. Maitland abides by his 'garrison theory,' suggested to him by Dr. Keutgen's essays on German town history—the theory that the 'burh' was first differentiated from the rural village by its establishment as a shire stronghold, wherein the thegns of its shire were bound to keep houses and retainers. But he gets no fresh evidence for this contention from Cambridge, and, in deference to Mr. Tait's criticism, he abandons one supposed piece of evidence. He 'feels bound to confess,' moreover, 'not that he had said too much of the borough as a military centre,' but that he had 'said too little of the borough as a *tún*,' i.e., as an agrarian organisation, 'and as the market and moot-stow of a shire.' Accordingly, he now lays great stress on the agricultural basis of the history of Cambridge, on its 'fields' and meadows and commons. Old Loggan's engravings, showing the 'open fields' with an almost suspicious clearness, and the ordinance of 1624, defining the pasture rights of 'every occupier of an ancient tenement having of old-time broad gates,' come at the opening of the book, and create a rural atmosphere which clings to it throughout. But Professor Maitland shows, by the aid of a minute analysis of the early *terriers*, that the 'shell' of the village community was a shell that was soon outgrown. He finds no trace of 'a knot of land-owning patricians, the successors of old hidesmen.' 'Already in the twelfth century, the burghal society is versatile and heterogeneous. Some wealthy burgesses own land; others own none. The market has mobilised the land.'

Of more general interest, however, than the detailed history of a particular English borough, which, after all, tells us little more than we could have guessed, and makes no positive contribution to the vexed question of 'origins,' are Mr. Maitland's observations on the development of certain fundamental ideas which we are still apt to take for

granted. The proposition which Gierke has worked out with so much elaboration in his 'Deutsche Genossenschaft,' that the *communitas* of the Middle Ages only slowly grew into the unity of the 'corporation,' is here made to unlock many doors, and even furnishes a palliation for the immorality of a certain Cambridge common-councillor in the evil days before municipal reform. 'The village community was not corporate. Corporateness came of urban life;' but it would seem that in the minds of some town councillors the evolution of the idea was not complete even in 1833.

Nor is this a mere sophistic distinction. The idea of the 'corporation' worked itself out *pari passu* with the idea of 'property.' As Mr. Maitland makes clear, when King John granted the vill of Cambridge to the burgesses, nobody could have told us whether he conferred 'ownership' in the soil upon a 'corporation,' for the simple reason that nobody could have understood the terms of our question. For 'what we have to watch in early times is not a transfer of something, some thing, called "ownership," from one sort of "units"'—whether tribe, clan, village community, or individual—'to another. It is the crystallisation round several different centres and in very different shapes of that vague "belongs" which contains both public power and private right, power over persons, right over things.' This is a view of the matter which, even if it is implicit in Gierke, and suggested in Mr. Baden-Powell's treatises on India, no one has yet stated so pointedly as Professor Maitland; and if it is confirmed by further consideration, it is bound to have an effect on our notions of the evolution of society which will extend immeasurably beyond the 'green balks' of 'open fields'

MR. ROUND'S 'COMMUNE OF LONDON'[1]

This volume of rather miscellaneous papers is hardly so substantial as those two earlier books of Mr. Round, the 'Geoffrey de Mandeville' and the 'Feudal England,' by which he put all students of mediæval English institutions under such heavy obligations. But it contains at least two contributions of signal interest. One is the paper on the Commune of London, which gives the volume its title. As every one who has paid any attention to the subject is aware, two of the chronicles of the reign of Richard tell us in almost identical terms that in 1191 the government of the day granted to the citizens of London their *communa*. What this may mean has hitherto been a matter of conjecture. If we turn to the cautious pages of Dr. Stubbs, we find, on the one side, that 'the victory of the communal principle' meant 'the establishment of the corporate character of the city under a mayor.' But, on the other hand, we are told that it merely 'gave completeness to a municipal constitution which had long been struggling for recognition.' We are warned against the temptation to suppose that 'commune' could mean in England just what it meant in France: 'The French charters are in both style and substance very different from the English.' 'The English have an ancient local constitution,' while 'the French *communia*' is that most abhorrent of things to most

[1] [*The Commune of London, and Other Studies*, by J. H. Round. (1899.) Reviewed in the *Nation*, November 30, 1899.]

English constitutional historians, 'a new thing.' Indeed, but for the fact that a Mayor of London makes his appearance in 1193, and the further fact that abroad 'commune' and 'mayor' went together, we might feel inclined to regard the episode as scarcely creating a ripple on the smooth current of native development. But now comes Mr. Round with the actual text of the oath sworn to their commune by the Londoners of 1191. How he chanced upon it he does not tell us, but its authenticity seems to be beyond question. And here we find a promise of obedience, not only to the Mayor, but also to the 'skivins' or 'échevins'—officers never before suspected in London, but markedly characteristic of the 'communal' organisation of Rouen and other towns of northern France. Moreover, the oath of 1191 goes on to promise to keep the counsel of 'the Mayor, the échevins, and the other *probi homines* who shall be with them.' And when Mr. Round next produces, from the year 1205, the 'oath of the Twenty-Four,' and shows that it was identical in its main features with the oath of 'the Twenty-Four' of Rouen, he has established a high probability that the London commune of 1191 was simply modelled on that of the Norman capital. At Rouen 'the Twenty-Four' were divided into two bodies of a dozen each, known respectively as the Échevins and the Councillors (*Consultores*); and the obvious presumption is that the échevins and the *probi homines* associated with them in London formed a similar body of Twenty-Four, similarly divided. And not only did London obtain 'a fully developed commune of the Continental pattern,' but, as Mr. Round also shows from the Pipe Rolls, the same year, 1191, saw a reduction of the *ferm* of London from 500*l.* to 300*l.* Evidently much more happened than the mere introduction of a new name for old liberties. It will be the task of the future historians of London to determine how far the institutions of 1191 survived in the later civic organisation.

The other paper of special importance is the first in the book, that entitled 'The Settlement of the South- and East-Saxons.' Mr. Round describes it as merely 'a pioneer

paper,' intended to point the way to a more systematic and critical study of English place-names. But it contains observations which certainly ought to arrest attention. It may be remembered that Kemble started with the assumption that in English place-names the suffix *-ing* had a 'patronymic' significance. Even the bold Mr. Seebohm accepted this as generally true. Disinclined to accept Mr. Kemble's view that the patronymic involved a 'clan' and a 'mark-community of kinsfolk,' Mr. Seebohm was reduced to the conjecture that it indicated a 'tribal household' with a dependent group of servile cultivators. There was such a complete absence of evidence for this contention that most readers were naturally inclined to abide by the simpler view of Kemble and Green and Dr. Stubbs, and to believe, in the words of the last-named, that 'all the primitive villages in whose name the patronymic *ing* occurs, were originally colonised by communities united either really by blood or by the belief in a common descent.' They will hardly feel so sure of this when they have read Mr. Round's paper.

To begin with—Mr. Round will permit us somewhat to rearrange his argument—they will learn that the long and impressive lists, in Kemble's well-known Appendix A, of 'Marks inferred from local names' are 'merely a pitfall for the unwary.' It has long been known that in several cases *ing* is a later modification, for euphony's sake, of some earlier and quite unpatronymic termination.[1] But Mr. Round points out that misleading *ings* of this kind are much more prevalent than has been supposed. A mere reference to Domesday shows that in some instances the supposed clan name is nothing more or less than a corruption of the name of an individual owner. How large a number of genuine *ings* are left on our hands Mr. Round has not yet ascertained; doubtless there are a good many. But now comes this further and far more important consideration. If we

[1] [The best statement of the matter, from the philological side, is by Mr. W. H. Stevenson, in the *English Historical Review*, April 1889. I am indebted for this reference to Professor Andrews.]

are going to collect *ings*, we must not stop at villages; we must put together all the place-names containing *ing* to be found scattered over the country. And when we begin to do this, we find that the suffix frequently occurs in the names of farm-houses which are now, and apparently always have been, quite isolated. *Ing* may have something patronymic about it, but evidently from that syllable alone we cannot deduce a clan settlement. Let us give Mr. Round's tentative conclusion in his own words:

> Here, then, is the value of these cases of what we may term arrested development: they warn us against the rashness of assuming that a modern or even a mediæval village has been a village from the first. The village community may be so far from representing the original settlement as to have been, on the contrary, developed from what was at first but a farmstead. The whole argument of such scholars as Professor Earle here and Dr. Andrews in America is based on the assumption that the land was settled by communities, each of them sufficiently large to have a head, whether civil or military. To that supposition such names as I have mentioned are, I think, fatal.

PROFESSOR PIRENNE ON THE FLEMISH TOWNS[1]

In M. Pirenne, Belgium has at last found an historian who combines an adequate knowledge of the local 'sources' with a large historical culture. Trained in German methods, evidently conversant with the most recent investigations, alike in Germany and France, in the field of mediæval institutions, and master of a vigorous and lucid style, Professor Pirenne has produced a volume which will appeal both to the general reader in his own country and to the professed historical student there and elsewhere.

Beyond this general testimony to its interesting and scholarly character, I must perforce, from sheer ignorance, abstain from criticism. But it chances that some seventeen years ago I had occasion to look into the sources for the history of Flanders in the age of the Arteveldes, and to take stock of the then existing modern literature dealing with the period. And it has interested me to revive the recollections of my own juvenile and wooden performance, and to compare some of the conclusions which were natural enough then to the youthful inquirer with M. Pirenne's far more mature and competent judgment.

In narrating the 'political' history, in the narrower sense, of Flanders and the surrounding territories in the thirteenth century, M. Pirenne has been unable to make

[1] [*Geschichte Belgiens.* Von Henri Pirenne. Band I.: Bis zum Anfang des 14. Jahrhunderts. Deutsche Uebersetzung von Fritz Arnheim. (1899.) Reviewed in the *American Historical Review*, October 1899.]

much advance on the older Belgian writers, chief among them M. Kervyn de Lettenhove; and this for a couple of reasons. The material is scanty; and it has already been carefully worked over. M. Pirenne endeavours, and not without occasional success, to supply the lacunæ in the evidence of the chroniclers from his own wide knowledge of the general European situation; but nevertheless the story remains, and probably will continue to remain, full of the most sudden and most inexplicable changes of front—or what seem like changes of front—on the part of all the chief personages concerned. Even if M. Pirenne did not himself care chiefly for the institutional and economic sides of history, as it is clear he does, he would be thrown back upon them by the impossibility of making any other part of his subject really interesting.

Turning, then, to the development of institutions, perhaps the first question that will suggest itself is as to the origin of that civic life which so early characterised the corner of Europe we now know as Belgium. It is with some amusement that I observe how trustfully I followed in 1882 the leading of Georg von Maurer, and with the aid and countenance of M. Vanderkindere's little pamphlet, 'Sur l'Origine des Magistrats Communaux,' found the germs of the later town-system in an imaginary mark-community. Since 1882 great has been the discussion on the subject; and now M. Pirenne, following the prevailing tendency among contemporary scholars, and applying to the Flemish towns the general doctrine of municipal *origines* which he has recently set forth with so much learning in the 'Revue Historique,'[1] finds the true beginning of town life in the settlement of 'colonies' of merchants and craftsmen beneath the walls of an abbey or castle.[2] This view is probably nearer the truth, or, perhaps one had better say, a larger part of the truth, than the rural-village theory; but its statement here by M. Pirenne still shows the lack of precision which I attempted to point out in his 'Revue Historique' articles. This defect will be remedied, let us hope, in the detailed

[1] [See *supra*, pp. 177, 195 seq.]

[2] *Geschichte Belgiens*, i. 200.

examination of the history of landed property in Ghent which is about to be published by his pupil, M. des Marez.

Whatever the origin of town life may have been, M. Pirenne's picture of the situation in the thirteenth century agrees in all its important features with the notions one could gather in 1882 from M. Vanderkindere's somewhat rhetorical but yet refreshing and original work on 'Le Siècle des Artevelde.' The key to the period is the struggle between the city oligarchies and the craftsmen; the former seeking the support of the French king, who was anxious to increase his hold over the vassal county of Flanders, and the latter turning to the count, who was equally desirous, in his more statesmanlike moments, of tightening his authority over the town-magistrates. But on one point M. Pirenne has something fresh to remark. When, in 1882, I came to describe the crafts of Ghent, I felt in an obscure way that there was something in the position of the weavers and the fullers which was rather difficult to fit into the framework of industrial life as it is exhibited to us by the modern describers of 'the gild system.' Nevertheless, I seem to have had no hesitation in saying: 'There was no jealousy between employer and employed, inasmuch as the latter could without much difficulty save sufficient capital to become a master himself.' It is now a comfort to have M. Pirenne point out, what seems very obvious once it is said, that 'the textile crafts in the great manufacturing cities of Flanders and Brabant presented an essentially different appearance from that usually shown by the artisan corporations of the Middle Ages.'

The cause of this difference is easy to discern. Instead of working, like other crafts, for the local market, they produced wholesale and for export. The weaver, fuller, and dyer did not in the least resemble in position the bakers or smiths. The latter were at once artisans and traders, and they sold direct to their customers the products of their industry, while the former had to restrict themselves to the humble *rôle* of mere factory hands (*Industrie-arbeiter*). With the public they came not in contact; they had only to do with the *entrepreneurs* who employed them,

i.e. the cloth-merchants (*drapiers*). The cloth-merchants put into their hands the wool to be worked up; and it was the cloth-merchants likewise who sold the finished cloth in the market. The merchant is a capitalist; the workman a wage-labourer.[1]

When we realise that the richer cloth-merchants were members of, or closely associated with, the civic oligarchy, we can understand that the quarrel between the craftsmen and the town authorities was probably an economic one as well as a constitutional.

If the foregoing description by M. Pirenne be true—and it certainly fits well enough into what we know of the civic troubles of the fourteenth and fifteenth centuries—it is evident that the peculiar conditions of the Flemish cloth industry had even thus early hurried it into a stage of development essentially different from and subsequent to 'the gild system' in its 'normal' form; into a stage such as German economists are wont to designate by the term *Hausindustrie*, and the English writers of the early part of this century by 'domestic system.' It differed indeed from this, as it is usually seen in later centuries in Germany and England, chiefly in its concentration in the cities; but it resembled it in the circumstance that though the little *meester* might still have his journeymen and apprentices, the real *employer* of them all, in the modern sense, was the merchant through whom the work came to them. M. Pirenne remarks [2] as to the weavers and fullers of Ghent, that the specifically craft organisations—the *Gewerke*, or, as they said in mediæval England, the *misteries*—were far too closely supervised by the échevins to be capable of being used as weapons against their rulers; 'but it was different with the religious fraternities.'

Let us hope that when in his next volume he comes to deal with the constitutional changes of the period of the Arteveldes, he will draw more fully on the unprinted material to which he refers as his authority; that he will tell us more about these religious fraternities; and that he will enable us still better to realise the daily life of the *Weve Ambachte*.

[1] *Geschichte Belgiens*, i. 305. [2] *Ibid.* p. 417.

KARL WILHELM NITZSCH [1]

The appearance of a new and improved edition of Nitzsch's 'History of the German People' is a convenient occasion for calling attention to a work which originally appeared some ten years ago. Prepared with loving skill by his pupil, Dr. Georg Matthäi, from the fragmentary papers which the master left behind him and from the lecture-notes of his hearers, these three volumes are not only rich in positive suggestion, but also give a vivid impression of the tendencies of recent historical teaching in Germany; and it is from this latter point of view that they will be of interest to economic students. Nitzsch was one of the first, if not the very first, of the professional historians to make the economic element the dominating one in the story of a nation's life. Dr. Matthäi calls attention to the significant fact that, in spite of Nitzsch's own protests against the abolition of the hero—the elimination of the influence of personality—in history, it was upon the development of the nation as a whole that he himself laid almost exclusive stress; and Dr. Matthäi is inclined to see in Nitzsch's firm grasp of the conception of evolution ('Entwickelung'), his chief merit.[2] But in this there is nothing new; of late, indeed, 'development' has come to be employed in historical writing with so little intermission that it threatens to make itself a nuisance. What was newer

[1] [*Geschichte des Deutschen Volkes bis zum Augsburger Religionsfrieden*, by Karl Wilhelm Nitzsch. Zweite, durchgesehene und vermehrte Auflage. Three vols. (1892). Reviewed in the *Economic Journal*, iii. 686 (1893).]

[2] i. pp. vii, viii.

and more fruitful in Nitzsch's work was that he found the preponderating forces in historical evolution to be economic. Not the manifestation of an abstract idea—like liberty, not even the struggle between Church and State, or the progress of intellectual enlightenment; but the rise and organisation of diverse economic classes and interests, and their shifting mutual relations, furnished him with the guiding clues through the thicket of events.

The barest outline of Nitzsch's teaching will be sufficient to indicate his mental attitude, and at the same time to show his indebtedness to men whom—*pace* Professor Menger—we may still venture to call economists, especially to List and Hildebrand. Nations, he thought, passed normally through three periods: one of agriculture and 'Naturalwirthschaft;' one in which trade and 'Geldwirthschaft' appear by the side of the earlier phenomena; and finally one in which trade and 'Geldwirthschaft' gain the upper hand. Of these the first lasted undisturbed in Germany till the end of the twelfth century. 'Naturalwirthschaft' is perhaps hard to define. Strictly, of course, it means an economic system based on payments in kind as opposed to one in which payments are made in money or 'Geld.' But Nitzsch uses it in a wider sense than this, as indicating all the conditions of an agricultural society bound in the fetters of *status*; and, indeed, it may be said to become with him wellnigh synonymous with feudalism. For the picture of the agricultural stage he has ever in his mind is not one of a population of independent farmers, but rather one in which the soil is tilled by serfs upon the estates of lords who devote their own energies to war. Thus, as he sometimes explicitly states and more frequently assumes as a matter of course, an 'agricultural' society is at the same time an aristocratic and a military one.

Such a picture as this corresponds undoubtedly with German conditions in the midst of the Middle Ages. But it is significant for those who concern themselves with social 'origins' that Nitzsch evidently regards serfdom as coming into existence just as soon as a settled agriculture was

introduced. It is true that 'the common small freeman' of the constitutional historians turns up frequently in his pages; and that he sometimes speaks as if *seigneurie* and serfdom were due merely to a spontaneous division among the freemen between those whose adventurous spirits took them into the fray and those of a more home-abiding turn who stayed behind to plough.[1] In one place he even tells us that this separation was not complete until after the time of Henry IV.[2] But elsewhere he describes 'the great majority of the free warriors known to Tacitus' as having entered upon a purely peasant life ('eine rein bäuerliche Kultur'), and left 'the honour of arms and the joy of battle, the arts of fight and discussion' to a number of special families, *since the fifth century*.[3] And in his chapter on 'Das Taciteische Deutschland' he makes the process take place even earlier. The Germans were already, he holds, passing from a pastoral to an agricultural stage, by way of a period of 'Feldgraswirthschaft,' or 'extensive' husbandry; for this he follows Hanssen in believing to be the meaning of the much-discussed 'arva per annos mutant.' Yet even then 'according to Tacitus, the tilling of the soil was essentially the work of slaves, occupying a position like the Roman coloni.' 'The free German of the time of Tacitus was not, as Justus Möser supposed, the landowning peasant ("Bauer"); for Tacitus says expressly that the free German did no work, and he regards him as occupied entirely with hunting, gaming, war, and discussion; he was no peasant (or tiller of the soil, "Bauer") but a warrior.'[4] In another place we learn that the German nobility 'preserved in its purest form *the old German character*. The administration of justice, warfare, and political deliberation continued as before to form the most honourable occupation of these families, and they had their estates tilled by dependents.'[5] How far this view is consistent with a mere separation of free men into two professions as late as the eleventh century we need not trouble to ask; the chapters were probably put together from utterances

[1] Cf. i. 181. [2] ii. 323. [3] ii. 4.
[4] i. 88. [5] iii. 327.

belonging to different dates, and we have no means of knowing what was Nitzsch's latest thought on the point—which, moreover, was one to which he gave no special attention. The matter is worth dwelling upon only as showing the impression which mediæval serfdom made on a man of keen historical insight of having existed among the Germans from the very beginning of a settled agriculture.

With the later Middle Ages—from the eleventh or twelfth century onward—Nitzsch had a more intimate acquaintance. His most important contribution to German history, the work entitled 'Ministerialität und Bürgerthum,' was in large measure an attempt to show how trade and 'Geldwirthschaft' arose from out of the purely agrarian conditions of earlier centuries. The *Ministeriales* were the various bodies of household servants and administrative functionaries, chiefly of servile origin, gathered around the persons of the great secular and ecclesiastical magnates at their castles and palaces; and these, according to Nitzsch, who has been followed by many later writers, constituted a most important element in the nascent citizen body. It is odd, let me remark in passing, that no one has yet, so far as I know, made a serious attempt to apply this theory to English town history. Such a class of *Ministeriales* certainly does not stare us in the face in the English 'sources,' but we should possibly find them if we looked for them, even if they did not play with us quite the leading part ascribed to them in Germany.

Germany remained exclusively agricultural down to a comparatively late period, some time after the rest of western (continental) Europe. Why was this? According to Nitzsch it was altogether a matter of trading routes. It has become a commonplace to ascribe the *fall* of German commercial greatness to the change of routes involved in the blocking-up of the Levant by the Turks and in the discovery of the Cape passage. Nitzsch traces its *origin* to similar causes. Down to the thirteenth century, he declares, Germany lay altogether outside the highways of commerce; or rather they encircled it on the north and south without penetrating it.

It was the political changes in that century in south-eastern Europe and the rise of the great Italian republics which first put the control of the Oriental trade into the hands of the north Italian towns, and made the cities of southern Germany and the Rhine the natural points of connection between the Mediterranean and northern Europe; while at the same time the rise of the Hanse gave German merchants the control of the Baltic.[1]

The growth of the cities, the struggle of classes within, the contest with the nobles without, form the main themes of Nitzsch's third volume, and themes which evidently aroused his interest more than any other with which he had to do. In the character and mutual relations of the German nobility and *bourgeoisie*, affected as both were by the weakening of monarchical power due to the imperial ambitions of the German kings, he finds the explanation of the peculiar features of German history down to the present day. His view is clearly and vigorously expressed in the concluding chapter—a chapter which seems to give more insight into the inner political and social movements of modern Germany than any other writing with which the reviewer is acquainted. In the Prussian State of the eighteenth century Nitzsch finds the highest condition and best employment of landowning nobles; in the cosmopolitan culture of central and southern Germany he sees the natural outgrowth of town-life, brought to its highest point in a 'Frankfurt senator's son,' Goethe. The problem of this century has been to unite these two elements, each admirable and each inadequate, in one national organisation.

With this indication of the wider bearings of the subject, et us turn back and look at Nitzsch's account of some of the earlier stages in town history. 'By the middle of the thirteenth century the new idea of the "citizen" (*Bürger*) had distinctly formed itself, in contrast alike to the "artisan" and the "peasant;" the body of citizens (*Bürgerschaft*) included all those from which the town council was recruited.

[1] ii. 311; ii. 62 *et passim.*

. . . This German town-patriciate was a landowning one; but it also took part in trade and money-dealings. The families of which it was composed let their land or their houses to the craftsmen in return for a periodical payment (*Zins*); and so a new practice made its appearance, that of *house-letting*, and with it came an increasing population of artisans by the side of the civic aristocracy.' [1]

The foundation of the municipal constitution Nitzsch finds in the grant of 'Marktfriede,' the special immunity and consequent jurisdiction attached to a recognised centre of trade; the merchant gild he makes little of, and further diminishes its importance by describing it as 'specifically Low German.' [2] And somewhat the same geographical distinction is drawn when he comes to consider the collision between the patriciate and the craft-gilds in later centuries. In the leagued towns of Swabia and the Rhine the gilds everywhere received a share in the government, sometimes even a share greater than that of all other classes; while in the Hanse towns led by Lübeck they were steadily excluded from power.[3] Nuremberg, with less than a fifth of its council composed of gild representatives, stood midway between the two groups, constitutionally as well as geographically.[4] The difference between the northern and the south-western towns was evidently a real one; and the more favourable position of the gilds in the latter may be explained in part by the policy of their episcopal lords, who had found in the craftsmen a counterpoise to the burgher patriciate.[5] Yet one cannot help feeling that in all probability the contrast is drawn too sharply; and in particular that the use of the term 'democratic' is very possibly misleading. For look for a moment at the somewhat parallel case of London. The enactment which put the city council completely in the hands of the companies has in this case also been interpreted as a democratic victory; and yet it does not take long to discover that a constitution in which 'the greater companies,' and the

[1] iii. 119.
[2] ii. 38. [*Cf. supra*, p. 171.]
[3] iii. 300.
[4] iii. 304.
[5] iii. 212.

wealthier men of those companies, had an overwhelming influence can hardly be described as unqualifiedly democratic. And in a similar way it may have been the case that the reason why in one German town gilds had political power and in another not, was that in the former they represented the wealth of particular trades which in the latter were non-existent.

JOURNEYMEN'S CLUBS[1]

A LITTLE work by Dr. Bruno Schoenlank, entitled 'Social Conflicts Three Centuries Ago,' and published in 1894, deserves attention as being a good deal better than its title, and as making a real addition to our knowledge of the sixteenth century. It is especially interesting in that it suggests some necessary criticism of certain other and more recent works that are likely to receive more notice in America and England.

The book deals with the *Gesellenvereinigungen*, or journeymen's associations, of Nuremberg in the fifteenth and sixteenth centuries; and, so far as the nature of such organisations is concerned, it adds nothing to what Schanz had said seventeen years before in his 'Gesellenverbände,' except some additional and not altogether well-placed emphasis. The opening chapters suffer no little from bad rhetoric: and they are so vague just where definiteness is most called for that it is impossible to make out what the development of Nuremberg industry really was. Dr. Schoenlank tells us, for instance, that *Hausindustrie* and the *Verleger* were encroaching on the old *Handwerk* organisation; he does not tell us in which crafts in particular that was taking place; nor does he seem to realise that the picture of poverty-stricken master-craftsmen, dependent on merchants, is hard to reconcile with that other picture of

[1] [*Political Science Quarterly*, March 1897; apropos of *Sociale Kämpfe vor dreihundert Jahren: Altnürnbergische Studien*, by Bruno Schoenlank, 1894.]

rich and haughty master-craftsmen exploiting their journeymen. Probably some crafts were entirely transformed; probably some quite new occupations, organised from the first on the 'domestic system,' sprang up during the same period; and probably some *Handwerke* survived, with but gradual and imperceptible changes of organisation as time went on. It is this presence, side by side, of the domestic and the gild systems which adds so greatly to the difficulties of economic history in the period between the Reformation and the great inventions; and before we can judge of the position of affairs in any particular town or district we want some quantitative notion of the relative importance there of each system.

I have used 'gild system' in default of any better term in English, although the name 'gild' was seldom applied to an organised craft in the England of the later Middle Ages. In somewhat the same way modern German writers are apt to speak of *Zunftsystem*, even where, in the language of the particular time and place, no *Zünfte* existed; though they have hardly so good an excuse, since they have another term, *Handwerk*, ready to their hand. As Dr. Schoenlank shows, the term *Zunft* was abhorred by the town-council of Nuremberg, and its use was carefully avoided, until circumstances had altered and the city fathers could afford to be careless in the eighteenth century. The council kept the several crafts under a very tight control, and regarded any unauthorised gathering of their members, or any independent decision by them in matters of trade policy, as *zünftisch* and therefore as worthy of severe punishment. In 1592 the purse-makers of Nuremberg had to tell the purse-makers of Magdeburg that they were not permitted to communicate with them directly 'because here there are no *Zünfte*.' Still, it is evident that the *economic* significance of the *Handwerk* was much the same all over Germany, whether it had the *constitutional* powers of a *Zunft* or not. Dr. Schoenlank hardly brings this out with sufficient clearness. On the other hand, when he is speaking of the efforts of the journeymen's associations to obtain a certain 'jurisdiction' over

their members, and connects these efforts with 'differences of class interests' between them and the masters, he sometimes forgets how little jurisdiction the *Handwerke* themselves exercised, either over masters or journeymen.

In spite of the author's two chapters on 'the beginnings of the organisation' and 'the progress of the *Gesellenverbände* in the fifteenth century,' there is hardly any firm ground to stand on until we reach the *Gesellenordnung* of the purse-makers of 1530. Most of the religious fraternities of earlier times, of which he gives any account, were composed either of masters alone or of journeymen and masters; and all alike were dissolved at the Reformation (1524). By the end of the fifteenth century, however, in those crafts in which 'wandering' became the rule, the customs had already grown up which were associated with the *Schenke*; and it is for the new light it sheds on the history of this peculiar institution that the book of Dr. Schoenlank is chiefly welcome. The *Schenke* was originally, perhaps, the cup of ale or wine given from the doorstep to a passing traveller: out of this grew the meaning afterwards attached to it in artisan circles, namely, the sustenance provided by his fellows for a travelling journeyman when he had reached a new town and was looking for work; and those crafts in which there was a regular system of such aid ultimately came to be distinguished as *geschenkte Handwerke*. In the sixteenth century, however, the term had come to include a good deal more: it meant primarily the periodical meetings of the journeymen, with all the festivity there enjoyed and the business transacted, as in the ordinance of 1530, 'Item, every four weeks they shall have and hold *eine Schenke*;'[1] and it meant also the tavern at which the meetings were held, and which served as the temporary residence of newly arrived journeymen until work was found for them. In modern German, of course, it simply denotes, in the straightforward language of Whitney's Dictionary, 'a retail liquor-shop'—but the word has come down in the world.

[1] *Sociale Kämpfe*, p. 58.

In 1530 the imperial authorities and the *Reichstag* began an attempt, which we may provisionally describe, in contemporary language, as designed for 'putting an end to' *Schenken*. The *Polizei-Ordnung* of 1530 remained, however, without effect—even after it was renewed in 1548. In March 1551 the town magistrates of Augsburg and Ulm began to remonstrate with those of Nuremberg upon their laxity, and to urge common action; and in October 1551 the authorities of Nuremberg ventured to call the craftsmen before them and to declare the *Schenken* abolished. But the 'free' and 'imperial' cities were alone in their action: most of the princes, and especially those of the house of Austria itself, continued to disregard the ordinance; and the journeymen of those towns in which the *Schenken* were undisturbed put the artisans of Nuremberg who had submitted to their abolition under so severe a boycott that the master-craftsmen of Nuremberg were reduced to desperation, and persuaded the council, in October 1553, to revoke its resolution. There were fresh imperial Recesses in 1551 and 1559; but no steps were taken at Nuremberg to put them into effect, though the magistrates at Strassburg were so indignant with the sister city for its inaction that for a time they actually excluded Nuremberg men from their fair. The rulers of Nuremberg had learned that they were helpless unless the surrounding powers backed them up; and they waited until in 1567 they had induced the three circles of Franconia, Swabia, and Bavaria to agree to common action. Then they made a fresh attempt; again the princes thought only of the immediate advantage of their own territories and deserted them; again there was a general boycott of Nuremberg and the cities acting with it; and at last in 1573 the magistrates were forced to make terms, and to consent to what Dr. Schoenlank calls 'a compromise.' With this the journeymen were content, and came back to work; and henceforth throughout the seventeenth and eighteenth centuries, in some cases well into the nineteenth, the journeymen retained their *Schenken*—or *Herbergen*, as they were soon more commonly called.

It is more difficult to judge of the inner significance of all this than to set forth its outward course. Dr. Schoenlank describes it as a struggle on the part of the journeymen for 'the right of coalition;' and that to some extent it clearly was. The journeymen clung to their meetings in the *Schenke* or *Herberge*, and to their custom of fining absentees; they jealously guarded the right of *Umbfrag*, that is, the exclusive right of finding work for newcomers. A newly arrived journeyman had to make his way to the *Herberge*, where he was given bed and food till he could be provided for; and then, if he was accepted as *redlich* (honourable), that is, as bearing a good reputation, the journeymen-officials regularly appointed for this purpose (*Wirthe*, later *Wirthengesellen*) went round with him to look for work (*um Arbeit schauen*). When the Strassburg authorities in 1563 sent to those of Nuremberg what we should now call a 'black list' of six journeymen who had been fomenters of strife, and asked that it should be shown to the Nuremberg Girdlers, 'so that they should give no work to them,' the latter replied that masters had nothing to do with the finding of work: that was the journeymen's affair. This was the general custom, they went on, in all *geschenkte Handwerke* in the chief German towns; and whomsoever the journeymen might favour or hinder, the masters had to put up with it. If a journeyman hired himself directly to an employer, the journeymen fined him and held him *unredlich*. This right of the journeymen obviously gave them some advantages in determining the conditions of labour, and the masters would probably have been glad enough to destroy it. It is evidently the same right externally as that claimed by modern organised labour —the exclusion of non-union men from employment. But before we decide that the relations of the two parties to the labour contract were the same as in modern times, we have to remember: (1) that these journeymen were almost all unmarried; (2) that when employed they lived in the master's house; (3) that the masters had themselves usually been journeymen;[1] (4) that the numbers of masters and of

[1] Cf. *Sociale Kämpfe*, pp. 139, 141.

journeymen were much the same—in one of the crafts of which we hear most there were ninety masters for one hundred journeymen, and in another fifty for seventy or eighty;[1] (5) that the Nuremberg masters certainly displayed no burning anxiety to put an end to the *Umbfrag*; (6) that in spite of what Dr. Schoenlank says of the frequency of disputes about wages, he can produce but one example, that of 1601; and (7) that the journeymen submitted to a fifteen-hour day and that their efforts for 'the limitation of the hours of labour' were limited to securing 'blue Monday.' Dr. Schoenlank quotes Schanz to the effect that their desire for a long rest after excessive toil was natural enough, and the remark is just: he is perhaps too much occupied with the economic aspects of the holiday to have a word to say about its moral aspects.[2]

This brings us to another feature of the *Schenke* which may be clearly seen in the documents which Dr. Schoenlank faithfully reprints, but of which he says nothing. It is over and over again charged against the *Schenke* that excessive drinking went on there, especially when newcomers were welcomed or old comrades parted with on setting out for their journeys; that unduly large fines were demanded from absentees, which those who attended used for their own refreshment; that the 'prentices (*Buben*) were allowed to be present and given too much to drink. The text of the imperial 'Polizei-Ordnung' of 1531 does not give us the impression that it was directed against a class separated from the masters by a social chasm: it deals with the 'masters' sons, journeymen, servants, and apprentices'[3] all alike. It complains of their 'running around in idleness, their guzzling and gorging;'[4] and lays down that when a newcomer arrives in a town, he is to go to the bedel of his gild (*Zunft-*

[1] *Op. cit.*, p. 91; cf. smaller number given on pp. 62, 89.

[2] On this, see the language of the ordinance of A.D. 1550, *ibid.* p. 132.

[3] 'Von handwerks-söhnen [or, in the body of the ordinance, meister-söhn], gesellen, knechten und lehrknaben.'

[4] 'Wegen des müssigen umgehens, schenkens und zehrens' (*ibid.* pp. 188, 192).

oder *Stubenknecht*), and where there is no *Zunft*, as in Nuremberg, to the journeymen's *Wirth* or *Vatter* (the keeper of the journeymen's tavern), or to some other trusty individual appointed by the authorities, and this person is to find him work. The journeymen are not to elect officers of their own for the purpose; and, whatever else is done, 'the whole business of drinking and eating on arrival and departure' is no longer to be permitted.[1] In the final town-ordinance of 1573, while the journeymen are to have their *Herberge* where newcomers are to be put up, and the officers of the journeymen (*Zuschickmeister*) are to look round for work for them, it is insisted that this shall not be made the occasion of a drinking.[2] In this *Herberge* the *Gesellen* can have a room, and they can meet there once a month, to discuss their affairs; though care is taken to insist on the presence of one of the elected officers of the *Handwerk* itself, and the power of the assembly to impose fines is anxiously restricted. But equal care is taken to restrict the amount of drinking, to prohibit indecent songs and gaming, and to prevent brawls.

The evidence is too large and too consistent through more than a century to allow us to suppose that these moral dangers in the *Schenken* were pure inventions on the part of the masters. They may, of course, have been unduly emphasised by the latter, to conceal their own economic purpose; but they ought at least to be mentioned by modern writers, if we are to have a complete view of the situation. One knows with what lofty contempt Marxists regard those who venture to make remarks like these: such things are all bound up with 'the standard of living,' they tell us, and are 'economically conditioned.' But the practice of writing social history with practically no mention of some of its important ethical aspects goes far towards creating from the socialist side

[1] 'Doch soll in und nach dem allen das sämtlich schenken und zehren zum an- und abzug oder sonst in andere weiss keineswegs hinfüro gestattet werden' (*Op. cit.* p. 189).

[2] 'Doch soll keine schenke ober zeche deswegen gehalten werden' (*ibid.* p. 109).

an 'economic man' almost as unreal as that of the economist.

It will be remembered that in the recent work of Mr. and Mrs. Sidney Webb on English trade-unionism, the authors declare that they cannot trace beyond the eighteenth century any 'continuous organisations of wage-earners for maintaining or improving the conditions of their employment.' They have waved aside the examples of mediæval yeomen's or bachelors' companies in England; and though it might still be maintained that some of these are best explained as '*continuous* organisations of *wage-earners*,' Mr. and Mrs Webb have certainly cast some doubt upon this interpretation in one such case, that of the Bachelors' Company of the London Tailors in the sixteenth century. The question of mediæval journeymen's associations in England must be left open for the production of further evidence;[1] and meantime those who are interested in it may be referred to Professor Brentano's article—interesting, among other reasons, for the glimpse of autobiography it contains—in Braun's 'Archiv für soziale Gesetzgebung' (vol. viii.). But Mr. and Mrs. Webb's book also contains some information which, looked at from the standpoint now reached, receives a new significance. They call attention to 'the existence' in the eighteenth century 'of journeymen's associations in most of the skilled trades.' They point out that 'the earliest trade unions arose among journeymen whose skill and standard of life had been for centuries encouraged and protected by legal or customary regulations,' and again that

> the typical 'trade club' of the town artisan of this time was an isolated ring of highly skilled journeymen, who were even more decisively marked off from the mass of manual workers than from the small class of capitalist employers. The customary enforcement of the apprenticeship prescribed by the Elizabethan statutes and the high premiums usually exacted from parents long maintained a virtual monopoly of the better-paid handicrafts in the hands of an almost hereditary caste of 'tradesmen,' in whose ranks

[1] For a fresh example, see *Quarterly Journal of Economics*, xi. 214.

the employers themselves had for the most part served their apprenticeship. Enjoying, as they did, this legal or customary protection, they found their trade clubs of use mainly for the provision of friendly benefits, and for 'higgling' with their masters for better terms.[1]

Such trade clubs are regarded by Mr. and Mrs. Webb as altogether new, and as 'due to something peculiar to the century;' and they are described as 'springing not from any particular institution, but from every opportunity for the meeting together of wage-earners of the same trade.'[2]

The more we look into these trade clubs, however, the more we are struck by the resemblances between them and those German institutions of an earlier century which Dr. Schoenlank and others have described. That the gatherings were usually monthly in each case might be a mere coincidence. But when we find that 'the relief of travelling journeymen was a prominent object of the early unions'[3] in some English industries, the resemblance seems to go to the essence of the institution. And when we are told by Mr. and Mrs. Webb that in some instances 'the journeymen of a particular trade frequented certain public-houses, at which they heard of situations vacant, and the "house of call" became thus the nucleus of an organisation,'[4] the inference seems natural that in these 'houses of call' we have an institution like the German *Schenken* or *Herbergen*, with probably a similar past history.

The 'houses of call' are mentioned in certain documents referring to the tailoring trade in London; and these Mr. F. W. Galton, Mr. Webb's assistant in the preparation of material for the 'History of Trade Unionism,' has since published under the auspices of the London School of Economics.[5] Mr. Galton quotes a description of the houses of call given by a contemporary in 1747, from which we

[1] *History of Trade Unionism*, p. 38.
[2] *Ibid.* p. 21. [3] *Ibid.* p. 24. [4] *Ibid.* p. 22.
[5] *Select Documents illustrating the History of Trade Unionism: I. The Tailoring Trade.* (1896.)

learn that 'masters go there to inquire when they want hands,' and 'custom has established it into a kind of law that the house of call gives' the men 'credit for victuals and drink when they are unemployed.'[1] As to the character of some of the proceedings at the monthly meetings, we may form some idea from what Samuel Bamford tells us of his visit to the trade clubs of London in 1815: 'They would generally be found in a large room, an elevated seat being placed for the chairman. On first opening the door, the place seemed dimmed by a suffocating vapour of tobacco. . . . Every man would have his half-pint of porter before him.'[2]

But one need not stop at the beginning of the century. Let any one read, in the last chapter of the 'History of Trade Unionism,' the vivid account of English trade-union life of to-day from the pen of one who has shared it. In the account of 'going on tramp,' we hear of the footsore traveller making his way to the public-house at which the local lodge is held, and refreshing himself before starting off to find the secretary; of the secretary writing an order 'to the publican' to provide the full relief of sixpence and a bed, and telling the tramp to repair to any suitable situation he may know of in the morning; and of many like details. Let any one enquire how the 'Nonconformist conscience' of the chapel-going and teetotal workman of the generation now passing away used to look on the lodge-night and its dangers. One will, I think, begin to doubt whether there has not been for centuries more continuity than is commonly supposed in the life of the skilled artisan class in the older trades.

Apropos of certain trade societies of 1721, Mr. Galton himself remarks that 'we may infer from the subsequent events that the origin of the organisation was not so recent as the employers supposed,' or rather stated.[3] My own impression is that we shall by-and-by find that, like the usages of the German journeymen in the eighteenth century that

[1] *The Tailoring Trade*, p. 4, *n.*

[2] *Passages in the Life of a Radical* (ed. of 1893), ii. 25.

[3] *The Tailoring Trade*, p. xv.

centred in the *Herberge*, the trade clubs of eighteenth-century England were broken-down survivals from an earlier period, undergoing, with the advent of the *married* journeyman and other causes, the slow transformation from which they emerged in the nineteenth century as the nuclei of the modern trade unions.

The point is of so little importance in reference to the problems of this century that one is almost afraid to call attention to it, lest it should be supposed that more significance is attached to it than is really intended by the present writer. The conditions of this century are new in so real a sense that, as has already been suggested in the foregoing criticism of Dr. Schoenlank, they have called forth substantially new institutions. Even if it could be proved that any trade society of to-day is historically a continuation of some definitely constituted society of a much earlier date, the fact would have but slight significance; and for the present even that much is not maintained. What is suggested is only that the habit of acting together in certain ways, which we find to characterise the journeymen of the eighteenth century, had been formed in a much earlier period.

Since the above was written, I have received from a London artisan a very interesting account of his experiences when he came up from the country to work as a silk-hat finisher in 1856. It describes conditions that have already passed away, and will soon be forgotten; and these conditions present features closely resembling in many respects the usages of the journeymen's societies of earlier centuries, as set forth by Dr. Schoenlank.

> There were then four distinct societies in London, viz. the Blue society (composed of Christy's workmen), the Bull society, the Nelson society, and the Fair Trade. . . . In February 1858 the Blue society was reorganised, and I was asked to be secretary. I was so for three months, until the rules were passed. We sat at the 'Anchor and Eight Bells,' Bermondsey Street, to take contributions. While passing the rules, and at all quarterly and general meetings, we were crowded into the large room over the taproom and bar.

Smoking went on, at least 80 per cent. smoking. From ninety to one hundred and twenty would be present, and some would pay a sixpenny fine and stay away. The President, Committee, and Secretary would sit at one end of the room. . . . Pint pots were very plentiful on the different tables, and at intervals there was a pause, the potman coming into the room crying out: 'Give your orders, gentlemen.' These meetings were held at 8.30 P.M. (no matter what time work ceased at the factory), to give members at Christy's retail shops a chance to be present. I mention this because many of the men would go into the 'turnhouse' an hour or two early, as it would be too far for them to go home and return. There was therefore a great amount of drinking before the meeting, and a good few would stay after the meeting until closing time. . . . It was the landlord of the turnhouse in Bermondsey Street who was treasurer.

Now that all the societies have been united, the trade turnhouse is still at a public-house; but all delegate and general meetings are held in the large room of the Southwark Radical Club; and there is no drinking during the meetings. Indeed, the leading spirits in the last great strike were lifelong abstainers.

Of the drinking usages in the workshops themselves my informant also gives some particulars. On the day he began to work, he tells me:

I found it was necessary to pay 'a maiden garnish' of five shillings, it being my first shop in London. On this floor there were sixty-six finishers in three 'shops' or 'batteries:' twelve men in one, twenty-two in another, and thirty-two in the one in which I worked. To this 'garnish' twenty-eight men paid twopence each (there being three apprentices and myself, making the thirty-two); so to drink my health and wish me well nine shillings and eightpence was spent in beer, on that account alone, on that day in that battery. I was very anxious about my work—coming, as I had, from a country shop—and if it had not 'served turn' (i.e. been passed by the foreman), I should have been 'off;' and the twenty-eight men who had partaken of my 'maiden garnish' would have paid twopence each as 'treatings off;' and all I should get would be the right to drink from the four and eightpence worth of beer. I won't moralise, but I must say I thought this a cruel wrong, and I determined to make a dead set against that custom as soon as I got 'the hop of the cage;' and in three months I carried in

that shop a resolution that any man 'off' from that battery should receive the twopences in money, which was called 'dry garnish.'

There were all kinds of other dues. If there was a vacant plank, and a man wished to move to it, he had to pay 'a plank gallon.' If a man had never before put on a silk 'under,' if it was known, there was 'a fancy gallon' to pay, and many others of a like kind. Moreover, the two publicans, one each side of the factory gates, had the free run of the place; and they and their potmen came in frequently for orders. There was never much ready money with the men, but there was a man in each shop empowered by a publican to write tickets for beer, to be paid from their wages, with usurious interest, at the end of the week.

This is, however, almost all a thing of the past. The present 'Rules of the Journeymen Hatters' Fair Trade Union of Great Britain and Ireland' enact that

All dues, such as marriage beer, garnishes, maiden garnishes, plank beer, fancy gallons, and wager beer, are done away with.

My informant tells me that the publican's agent has also been abolished.

There was and is still, though it is evidently decaying, a curious system of shop jurisdiction, which presents many apparently archaic features. The procedure preserves several terms on which modern dictionaries give no help.

When workman A called B by an opprobrious name, which the latter resented, B could 'weigh out the caulker,' by declaring, 'If your name is A, a man of this shop and a shopmate of mine, I caulk you: prove me (to be so and so) before you hat, or pay sixteenpence for larking.'

At this the 'constable' of the shop called out, 'Gentlemen, the caulker is out.' Every man in that battery had ceased work. Now A could either 'call his words in again' or 'give the wrong insist.' If he did the latter, the constable at once said, 'a garrett in ten minutes.' The garrett was formed by the men of the battery; and if they decided that A deserved the reproach, he was fined four shillings, which was spent in beer in that battery. The case could, however, have been taken to the higher court—'the dozening,' the men for which would have been selected from a dozen shops.

The present rules of the amalgamated society still enter with some detail into 'caulkers,' 'wrong insists,' 'garretts,' and 'dozenings;' but their purpose is 'to prevent them as much as possible.' The fines now go to the general funds, and drunken men are disqualified from voting or 'insisting.'

There is one other term used in the hatters' trade, which is so odd and apparently so completely unknown to philologists, that it may be well to mention it here. An apprentice put under a journeyman for a period of six months' instruction is called his 'whimsey,' or said to be 'under whimsey;' the instructor is called the 'whimsey-master,' and the occupation of the boy is called 'whimseying.'

It is certainly surprising to come across so many quaint usages in an industry which would seem to have passed through the 'domestic' or 'sub-contract' stage in the eighteenth century;[1] and which one would have supposed to have been altogether transformed by the substitution of silk for beaver at the beginning of the present century. This account suggests the desirability of securing trustworthy records of old trade customs, before they are destroyed (in many cases very properly destroyed) by temperance, book-learning, the newspaper, and increasing freedom of intercourse.

[1] Howell's *Conflicts of Labour and Capital*, ch. ii. § 55.

ECONOMIC OPINION

MONTCHRÉTIEN [1]

Political economy and history have this not altogether fortunate characteristic in common, that they attract the incursions of the untrained. There is scarcely any other department of thought, save perhaps theology, in which it seems so safe for persons entirely without adequate preparation to print their opinions. One would have thought that a common distress would have made all serious students of either of these subjects careful not to make hasty inroads into the other. But it has not always had this effect; and it must be confessed that of late years economists have been grievous sinners. Some early treatise, let us say, attracts their attention by its title; they find that it anticipates modern doctrine; and straightway, without any inquiry into its relation to preceding literature, it is elevated into a position of unique importance. Such, for instance, has been the happy lot of Oresme's treatise on money in the fourteenth century.[2] It is still more obviously the case with Montchrétien in the edition now before us. Montchrétien,

[1] [*Traicté de l'Œconomie Politique*, by Antoyne de Montchrétien (1615). Avec Introduction et Notes par Th. Funck-Brentano. Paris: 1889. Reviewed in the *English Historical Review* 1891, vi. 779.]

[2] [On Oresme see the article by the present writer in Palgrave's *Dictionary of Political Economy*, vol. iii.]

there seems little reason to doubt, was the first writer to issue a book under the title of 'Political Economy.' This was no inconsiderable contribution to the movement of thought which was gradually separating economics as a distinct field of speculation from theology and philosophy; and, if for no other reason, Montchrétien deserves to be remembered, and his work to be reprinted. But it does not necessarily follow that, because a man treats of a subject by itself, his remarks will be wiser than those of his predecessors who dealt with it in conjunction with other matters. This does not seem to have occurred to his recent editor, M. Funck-Brentano. To him Montchrétien is 'the creator of a science in which the conceptions of the old master have never been surpassed.'[1] His book 'contains the most complete body of doctrine that has ever appeared. Nothing is wanting, from the most elementary definitions to the exposition of the vastest laws.'[2] 'Of all the economists he is the only one who has understood the solidarity of the principles of free trade and protection.'[3] We need not enter into a discussion as to whether this unbounded eulogy would have any justification if Montchrétien's opinions were really original. We are relieved from that task by the discovery that there is hardly a single argument or proposal in the 'Traicté' which is not derived from earlier writers.

His most considerable, though never acknowledged, obligations are, as we might guess, to the great work of Bodin, the 'Six Livres de la République,' which, appearing in 1576, had by the time Montchrétien set himself to write passed through several editions in both French and Latin, and had indeed become almost a text-book in western Europe. A sufficient proof is found in the passage wherein Montchrétien gives us what his editor calls *la formule parfaite du protectionnisme*; it is almost a verbal quotation.

'Quant aux matières qu'on apporte des pays étrangers il	'Que Vos Majestez . . . ne permettent point que l'on apporte

[1] *Traicté*, Introduction, p. ii; cf. pp. xxiii and 129 *n.*
[2] *Ibid.* p. xxiii.
[3] *Ibid.* p. xxvii.

est besoin . . . le (*sc.* l'impost) hausser aux ouvrages de main, et ne permettre qu'il en soit apporté de pays étrange, ny souffrir qu'on emporte du pays les denrees cruës. . . .'—Bodin, bk. vi. ch. iii. p. 877 in ed. 1593.

les ouvrages de main, qui procedent de l'art des hommes, ne que l'on emporte les matières et denrées crues de ce royaume.'—Montchrétien, p. 247.

Moreover it is evident, on looking at the context, that Montchrétien is not here merely making use of a phrase which may have become current; he is copying Bodin with the 'République' open before him. For the paragraph beginning on p. 239, comparing the 'inexhaustible resources' of France with the mines of other countries, is taken from Bodin, p. 876; and after some four pages of general grandiloquence Montchrétien returns to his copy on p. 244 with the naïve remark, *Retournons d'où nous sommes partis.*

Considering that it is precisely for his masterly treatment of the question of trade that his editor recommends Montchrétien to our admiration and imitation, it is hardly necessary to go further. But it may be worth while to point out one or two other instances of plagiarism. On the question of currency [1] he makes much the same use of Bodin's chapter on that topic as in the case of customs: where he leaves his master, as in the assertion [2] that the influence on prices of the new supplies of the precious metals can be overcome by a state supervision of trade, he falls into mere confusion. An amusing example of unabashed pilfering is afforded by Montchrétien's book iv., on the duties of the prince. He had already said over and over again all he really wanted to say; but he thought his book was not long enough, and proceeded to pad. One of the most original portions of Bodin's treatise was the opening chapter of book vi., in which he had advocated the establishment of the *censure*—a sort of combined census and statistical survey—as a means of exercising control over public morals

[1] *Traicté*, p. 176 seq. [2] *Ibid.* p. 257.

and of introducing reforms into the administration. The proposal had by this time come to be widely known; it had already been the subject of a treatise by the celebrated jurisconsult Obrecht of Strassburg. Montchrétien boldly picks out all the more important passages in Bodin's chapter, and transfers them to his own pages. The only precaution he observes is to invert the order. Thus pp. 344–345 will be found to correspond to Bodin's pp. 846-847, pp. 346–348 to Bodin's pp. 841–843, and pp. 351–353 to Bodin's pp. 839–840 (in ed. of 1593).

The condition of manufactures in France, which occupies Montchrétien's first book, is barely alluded to by Bodin. We have therefore to look elsewhere for Montchrétien's inspiration; and we have not far to go, for there is hardly one of his proposals which had not been made over and over again by Laffemas and others in the later years of Henry IV. Instead of representing an advance of thought, Montchrétien often occupies a more reactionary position; as, for instance, in his evident desire to drive all foreign craftsmen out of the country, while Laffemas would only insist that they should teach Frenchmen their superior methods.[1]

According to his editor Montchrétien was a genius whom his contemporaries could not understand;[2] an ardent benefactor to his country, who threw himself into the Huguenot rising in which he lost his life because he dreamt of the realisation of 'vast aspirations and great views.' It is of course quite possible for a man sincerely to desire to benefit his country and himself at the same time: yet it may create a misleading impression if the personal motives known to exist in any particular case are left altogether out of sight. And there is one significant fact about Montchrétien's book which would seem to cast no little light on its character: it is that the industry for which

[1] Compare on the Italian glass-works Montchrétien, p. 95, with Laffemas, *Recueil*, &c. (1604), in *Archives Curieuses de l'Histoire de France* (1837), vol. xiv. 225.

[2] Introduction, p. xx.

Montchrétien first asks protection—an industry to which he devotes more space than to others certainly far more important—was the hardware trade, the manufacture in iron and steel of arms, tools, and utensils.[1] This was, as it happens, his own business.[2]

Though Montchrétien was not 'a great economist,' his book is not without its interest. True, it is not much more than a thick mercantilist pamphlet: all its leading ideas are borrowed, its rhetoric is often wearisome and commonplace, and it displays but little judgment or balance of mind. But it affords a great deal of information as to the conditions of commerce and manufactures, and it shows the direction in which economic forces were going. His denunciation of foreign goods, especially Dutch, as cheap and nasty; his references to the labour of women and children; his complaint that factors and agents were ousting the old-fashioned merchant; the importance he attributes to the carrying trade; his advocacy of the Dutch plan of trading in companies; on these, and many other points like them, he will always be worth consulting.

[1] *Traicté*, pp. 46–58. [2] Introduction, pp. xii,|xiii, xv.

THE TORY ORIGIN OF FREE TRADE POLICY [1]

THERE is a group of English writers at the end of the seventeenth century who have long been understood to stand in a place by themselves among the pamphleteers of the time. Distinguished above them all [2] is Sir Dudley North, of whom Macaulay,[3] instructed by McCulloch,[4] tells us that he 'had thought out a complete and admirable theory of trade, substantially the same with that which, a century later, was expounded by Adam Smith,' and whom Roscher entitles 'the free trader' *par excellence*.[5] But by his side we have been accustomed to place two [6] other writers, Sir Josiah Child and

[1] [*Quarterly Journal of Economics*, July 1897.]

[2] So it was understood until very recently, when a claim for priority was put forward on behalf of Barbon. See *infra*, p. 269, *n.* 5.

[3] *History of England*, ch. iv. (in 2 vol. ed., i. 253).

[4] *A Discourse on the Rise, Progress, . . . of Political Economy* (1824), p. 37. The same account reappears in the historical 'Sketch' prefixed to his *Principles of Political Economy* (1825), and in many subsequent publications.

[5] 'Der Freihändler North' is the title of the section in Roscher's *Zur Geschichte der englischen Volkswirthschaftslehre im sechzehnten und siebzehnten Jahrhundert*, p. 85 (in *Abhandlungen der königlich-sächsischen Gesellschaft der Wissenschaften*, 1857). In this treatise of Roscher's—from which subsequent German writers have usually drawn all their information concerning the English writers of the period—North's *Discourses* are spoken of as 'ein ebenso tief begründetes wie consequent ausgeführtes System der Freihandels-Politik.'

[6] A hasty reading of Roscher, p. 121: 'Ihren höchsten Gipfel erreichte die vor-hume'sche Nationalökonomie der Engländer in dem grossen

Charles Davenant, who, if they were not so thorough-going and are only describable as 'moderate mercantilists,'[1] or, at best, as 'eclectics,'[2] had at any rate some unusually 'sound' and 'liberal' views.[3] And now of late we have been reminded that we must add the name of Nicholas Barbon to the number.[4] He has even been elevated above North, and we nave been gravely told that we must see in him the first refuter of the mercantilist doctrine.[5]

It is a significant fact, when one comes to think of it, and yet a fact to which hitherto, it would seem, attention has not been called, that these four men, differing completely as they did from one another in training and practical interests, had yet one trait in common besides their 'liberal views'

Triumvirat, Petty, North und Locke'—actually led Eisenhart, *Geschichte der Nationalökonomik* (1881), to speak of 'die Freihändler, Petty, North, Locke.' That this is altogether a false impression of Petty and Locke is at once apparent to those who have actually read their works.

[1] Cossa's *Introduction to the Study of Political Economy* (trans. Dyer), p. 203, where, with scanty justification, Temple is placed in th same 'school' as Child and Davenant.

[2] Ingram's *History of Political Economy*, p. 49, where also, following Cossa, Temple is added to the company.

[3] 'Sound' is the favourite term of praise in the English translation of Cossa—e.g. p. 203, on Child; while 'liberal' is preferred by Roscher—e.g. p. 114, on Davenant.

[4] That Barbon was 'one of the earliest expounders of the fallacies of the balance of trade' (Cunningham, *Growth of English Industry*, 1882, p. 351) has long and often been asserted, first probably by McCulloch, *Literature of Political Economy* (1845), p. 157; criticised by Karl Marx, *Capital*, English translation, p. 120, *n.*, and echoed by Kautz, *Die geschichtliche Entwickelung der National-ökonomik* (1860), p. 318. But his merits have been lately dwelt on at length by Dr. Stephan Bauer, in Conrad's *Jahrbücher für National-ökonomie*, N. F. xxi. (1890), p. 561, and more briefly in Palgrave's *Dictionary of Political Economy*, *s.v.* Barbon; and other treatises assigned (no doubt correctly) to him, besides that of 1696 referred to by McCulloch.

[5] Dr. Bauer in Palgrave's *Dictionary*, *s.v.* Balance of Trade (History of the Theory): 'The first thorough refutation was given by Nicholas Barbon, and his influence is to be traced in the writings of Sir Dudley North.'

concerning trade: they were all Tories. North, the most 'enlightened,' was also the most obnoxious to the Whigs. Readers of Macaulay may remember his account of North's services to the Government of Charles II. as Sheriff of London during the Tory reaction, and the humorous touch about 'the great discomposure of his lady' when the 'carts, loaded with the legs and arms of quartered Whigs, were driven to his fine house for orders.'[1] Macaulay characterises Davenant as 'a most unprincipled and rancorous politician;'[2] which may or may not be historical truth, but is, at any rate, a testimonial to his Toryism. Child, the same writer declares, turned Tory in 1680 to save the privileges of the East India Company.[3] Among the few facts known about Barbon's life is that he was one of the projectors of the Tory Land Bank.[4]

There is evidently an inherent possibility that this common Toryism had some connection with their 'liberal' views on trade. And this possibility becomes a certainty when we put before ourselves the contemporary political situation in England. The Whig party, arising as it did at a time when the alliance of Charles II. with France was believed to endanger liberty and Protestantism, was from the first marked by a spirit of antagonism to France. The disadvantages of trade with France formed one of its most effective cries. It was in this connection, most commonly, that for half a century Whig orators and pamphleteers called up the spectre of Overbalance. On the other hand, the Tory party set itself from its very birth to preach the blessings of

[1] The incident is taken directly from the account in Roger North's *Life of Dudley North*, in *Lives of the Norths* (ed. 1826), iii. 125, which with its phrase 'abscinded members,' and its remark that 'she could never be reconciled to the dog hangman's saying he came to speak with his master,' is at least equally humorous.

[2] *History of England*, chap. iii. (ed. 1871, i. 153). The unpartisan Ranke (*History of England*, English translation, iii. 207) simply calls him 'the skilful spokesman of the financial opposition.'

[3] *Ibid.* chap. xviii. (ii. 306).

[4] See the account of him in the *Dictionary of National Biography*.

'free' trade,[1] at any rate with France, and to pooh-pooh, even when it could not refute, the theory of Balance. It is clear that Tory writers on trade, however sensible we may suppose them, could hardly fail to have a partisan bias in favour of liberty of commerce, and that, however clearsighted they may have been, they were likely to have their insight sharpened by party prejudice. McCulloch's explanation of North's enlightenment, that on questions of trade 'party interests were not directly affected,'[2] is the very opposite of the truth.

We are all familiar with the fate of Bolingbroke's proposed commercial treaty with France in 1713. Mr. Lecky has told us how the opposition 'was vehemently fanned by the whole Whig party,' including 'Halifax, the founder of the financial system of the Revolution,' and 'Walpole, the ablest of the rising financiers.'[3] But what is not so well known is that each party in 1713 was following traditions of its own which were already forty years old. The real starting-point in the history of Whig policy in the matter of trade is the great Prohibition of 1678. It is an illustration of the way in which historical events even of real importance drop out of the current tradition of later ages that this measure, regarded by so many English writers far into the eighteenth century as a turning-point in the economic fortunes of their country, is to-day as good as forgotten. We may find that 'very accurate and intelligent author of the "Memoirs of Wool," the Rev. Mr. John Smith,'[4] declaring in 1747, with all the impressiveness

[1] In the sense in which the adjective 'free' was then used. Thus Mun wrote, about 1628: 'Although it is true that the commerce ought to be free for strangers to bring in and carry out at their pleasure, yet, nevertheless, in many places the exportation of victuals and munition are either prohibited or at least limited to be done by the people and shipping of those places where they abound;' *England's Treasure by Forraign Trade* (reprint of 1895), p. 12. See also the quotations from one of the Commissioners of Trade in 1713, and from Davenant, *infra*, p. 300, *n.* 3, and p. 302.

[2] Preface (p. xi) to the *Select Collection of Early English Tracts on Commerce*, printed for the Political Economy Club, 1856.

[3] *History of England in the Eighteenth Century*, i. 144.

[4] Adam Smith, *Wealth of Nations*, Book IV. chap. viii. (ed. Rogers, ii. 235).

of capitals, that 'THIS YEAR, MDCLXXVIII., is to be looked upon as a remarkable ÆRA of the *English* Commerce.' [1] In 1764 that comparatively 'sober and judicious writer, Mr. Anderson, author of the "Historical Deduction of Commerce,"' [2] still gives entire credence to the statement of 'the authors of the time' that in the twenty years after the prohibition, and mainly because of it, English exports had more than doubled.[3] And yet Macaulay has, so far as I can see, not one word on the subject. Economic historians either make no reference to it or fail to lay any particular stress upon it;[4] and the only indication of its significance in international politics to be found in any recent writer of note is a single brief sentence of Ranke.[5] It may be useful, therefore, to bring together in this place a few of the more noteworthy incidents of a forgotten episode.

Davenant, writing in 1711,[6] gives this account of the origin of the outcry against France:

About the year 1660 . . . France became the rising empire. And it rose so fast as to beget just apprehensions to England for our future safety. In the meanwhile several good patriots, perceiving the Court then fatally running into French interest and measures, and finding it would be difficult to engage the people (newly come out of a civil war) to follow and join with them in more national councils, by speculations merely political concerning the progress of the French arms and power, they thought the best course to awaken Englishmen was to alarm them about the danger they were in to lose their trade; and, for this reason, nothing was so common as to cry 'that England was undone by the prodigious overbalance the

[1] *Memoirs of Wool*, i. 325.

[2] This encomium from Adam Smith, Book V. chap. i. (ed. Rogers, ii. 329), is, it is true, in comparison with 'the late Mr. Dobbs.'

[3] *Apud* Macpherson, *Annals of Commerce*, ii. 593.

[4] A bare mention of the Act of 1678 may be found upon search in many modern books, but usually with some misleading comments; e.g. 'The prohibition was, it is true, of no long continuance,' Dowell's *History of Taxation*, ii. 28.

[5] *History of England*, iv. 42.

[6] *Works* (ed. Whitworth, 1771), v. 362.

French had upon us.' . . . This overbalance was made use of maliciously by some who had a mind to disturb and defame the Government.

Such scraps of information as we can collect fully bear out this account of Davenant's, making due allowance for the manifest party colouring of the last sentence.

That England was being drained of its treasure by French imports began to be maintained by individuals here and there soon after the accession of Charles II. In 1663 Samuel Fortrey published a tract on 'England's Interest and Improvement,'[1] in which he declared, on the basis of 'a particular not long since delivered in to the King of France,' of which he professed to give a translation, that 'our trade with France is at least sixteen hundred thousand pounds a year clear lost to this kingdom.'[2] This estimate was frequently repeated and discussed in later years.[3] There seems to be no evidence that it met with much acceptance at the moment. We may perhaps date the beginning of popular agitation some ten years later, about 1673, when Fortrey found so many friends 'very desirous' of copies that he reprinted his paper. By that time the situation had greatly altered. The enthusiastic loyalty which had greeted the restored king had passed away, and 'the country party' was growing into a regular opposition. The alliance of Charles and Louis XIV. was felt to portend danger to Parliament and to Church; and, in reaction against the French alliance, the country party was clamouring for war with France, and restrained only by its reluctance to trust Charles with an army. The manufacturing and commercial classes had independent and grave reasons for irritation. For some time there had been a large exportation of English cloth to France.[4] In 1667 Colbert introduced a new tariff, which

[1] Reprinted by McCulloch in *Early English Tracts on Commerce*.

[2] *Ibid.* p. 234.

[3] E.g. in *Britannia Languens* (1680), p. 188; Davenant (1698), *Works*, ii. 90; the *British Merchant* (1713), ed. 1721, i. 232.

[4] See Montchrétien's complaints in 1615, in his *Traicté de l'Œconomie Politique* (ed. Funck-Brentano), pp. 68–72; and cf. Fagniez, *L'Economie Sociale de France sous Henri IV*, pp. 137, 138.

was practically prohibitive, and almost entirely destroyed the market for English goods.[1] There was meanwhile a growing demand in England for certain French commodities. 'At this time,' says Anderson, 'the laudable English fashions of former times began to alter in favour of France. The women's hats were turned into hoods made of French silk, whereby every maid-servant in England became a standing revenue to the French king of the half of her wages.'[2] 'French wine,' wrote John Locke at the time, 'is become a modish drink among us, and a man is ashamed to entertain his friend or almost to dine himself without it.'[3] There was, besides, a considerable demand for French linen, brandy, and paper. England must have paid for no small part of these imports with money: whence it must have been getting this money, most men did not pause to ask. It was natural enough that the commercial classes should take up the cry of Overbalance; natural enough that the political Opposition, anxious to enlist the commercial classes on their side, should at once take advantage of it—and, indeed, honestly believe in it.

Roger North, the Tory critic in the reign of George II. of the then fashionable Whig tradition, has given us an entertaining account of the solemn deliberations of the London merchants.[4] Among the 'diverse Projects of the Faction that tended to straighten the King' was one of a Commission of Trade:

It was by the Duke of Bucks, Shaftesbury, and others represented to the King that his Majesty was too much troubled in

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[1] Child, writing about this time (Preface to his first *Discourse*), says: 'A very great part of the French trade for exportation is lost by reason of great impositions laid there upon our draperies.' For other contemporary references, see the pamphlets of 1677 and 1678 in Smith's *Memoirs of Wool*, i. 285, 324. The author of *Britannia Languens*, p. 159, reckons the value of the cloth previously exported annually to France at 600,000*l*.

[2] *Apud* Macpherson, s.a. 1668, ii. 534.

[3] *Considerations of the Lowering of Interest*, written about 1672; in Ward, Lock, & Co.'s cheap reprint of *Essays*, p. 598.

[4] *Examen* (1740), p. 461.

Council with dark Questions concerning Trade, which at last were referred to eminent Merchants, and their Advice commonly was the Rule. The Courtiers, for his Majesty's Ease, moved that there might be a Commission to several of the greatest Traders in *London* to examine all Matters of that Kind, and to report their Opinion to the Council; upon which his Majesty might determine. This plausible Project was put in Execution, and the Leaders of the fanatic party in the city . . . were the Commissioners; for so it was plotted. The great House in *Queen Street* was taken for the use of this Commission. Mr. *Henry Slingsby*, sometime Master of the Mint, was the Secretary; and they had a formal Board with Green Cloth and Standishes, Clerks good Store, a tall Porter and Staff, and fitting Attendance below, and a huge Luminary at the Door. And in *Winter* Time, when the Board met, as was two or three Times a Week, or oftener, all the Rooms were lighted, Coaches at the Door, and great passing in and out, as if a Council of State in good Earnest had been sitting. All Cases, Complaints, and Deliberations of Trade were referred to this Commission, and they reported their opinion. . . . The Characters of the Commissioners considered, one may conclude that, whatever Interests were regarded, the public Revenue coming to the Crown out of Trade was not the chief of their Care, unless it were to sink it by all the Ways they could possibly contrive.

It is obvious that the enjoyment of a customs revenue which was free in large measure from parliamentary control furnished a strong motive to the Government to keep open the trade with France.

It was probably from this body that a document emanated that was destined to have a great effect on English policy. This was: 'A Scheme of the Trade, As it is at present Carried on between England and France, In the Commodities of the Native Product and Manufacture of each Country; Calculated as exactly as possible in Obedience to the Commands of the Right Honourable the Lords Commissioners for the Treaty of Commerce with France: and humbly tender'd to their lordships.' [1]

[1] It is printed in Somers's *Tracts* (1748), iv. 536; in Cobbett's *Parliamentary History*, iv., App. xi.; and in several other places in whole or in part. The polemic over it which fills a large part of the

This scheme set forth with great apparent exactitude the details of exports and imports, summing up thus:

By the Account above, your Lordships may perceive that the Linnen and Silk Manufactures only, Imported from *France*, amount to upwards of Eight Hundred Thousand Pounds, and the Manufactures of Wool and Silk exported from *England* thither do not amount to Eighty Five Thousand Pounds. As also all other Commodities of the Product and Manufacture of *England*, Exported into *France*, do not amount to Ninety Thousand Pounds more: Whereas the Wines, Brandies, and other Commodities of the Product and Manufacture of France, Imported into *England*, amount to upwards of Three Hundred and Twenty Thousand Pounds; besides an incredible Value of Toys, rich Apparel, Point-Lace, &c. So that it is apparent that the Exports of our Native Commodities and Manufactures to *France* are less in Value by at least One Million of Pounds Sterling than the Native Commodities and Manufactures of France which we receive from thence.

It is dated November 29, 1674, and signed by fourteen London merchants. Among the names appear some that Macaulay has canonised for their patriotic support, in later years, of that great Whig undertaking, the Bank of England —John Houblon, and his father, James,[1] and Michael Godfrey, with his 'strong and clear mind;'[2] together with Thomas Papillon, the violent Exclusionist, whom Child afterwards expelled from the direction of the East India Company.[3]

British Merchant and the *Mercator* in 1713 is not a little amusing. In the 1721 reprint of the *British Merchant* it becomes 'the Old SCHEME' in vol. ii., and from ii. 128 onward 'the OLD SCHEME.' The *Mercator* (as cited by the *British Merchant*, ii. 33) called the preamble to the Prohibition Act of 30 Car. II. 'a wild preamble to a wild Act of Parliament, because our Legislators were cheated by the old SCHEME;' and its writers 'promised their Readers that they would take that Scheme to pieces, and hang it in the Sun a drying, where it shall shrink like a Red Herring, to a size no bigger than the true substance of it.' *Ibid.* i. 318.

[1] For a brief account of the Houblons, see Rogers, *First Nine Years of the Bank of England*, p. 3, *n.* 1.

[2] Macaulay's *History of England*, chap. xx., ii. 483.

[3] *Ibid.* chap. xviii., ii. 305.

As soon as Parliament met in the spring of 1675 this terrifying document was presented to it; it is said,[1] by Sir George Downing, one of the Commissioners of Customs, who was probably preparing to crown his long career of self-seeking by returning to the side of the Opposition, if the popular current should become strong enough to make it worth his while. According to a later tradition,[2] it was 'so well received that the scheme was entered into the journals of both Houses of Parliament, and into the books of the Custom House;' 'though the Court at that time favoured the interests of France so much, preferably to their own, that the trade went still on.' According to another account,[3] the House of Commons 'ordered a bill to be brought in, which was received with approbation.' Only faint echoes of the debates on trade during these years have come down to us; but they are enough to show how completely the conclusions of the scheme were accepted by the Opposition. Foremost among them was the Colonel Birch whom Macaulay singles out in 1688 for his 'strong sense and mother wit,' and for 'the great talent for business' which he had 'shown in high fiscal office,'[4] and who now, in 1675, sought to exasperate the Commons by remarking sarcastically, 'You may make war with France, with the money he overbalances you in your trade, which you get, like bees, by industry.'[5]

From November 1675 to February 1677 Parliament was prorogued. When it met again, antipathy towards France was even fiercer than before; and it was now for the first time, it seems, that the proposal was brought forward for a complete prohibition of importation from that country. Mr. Harbord

[1] Echard's *History of England* (ed. 1720), p. 920. According to a statement of the Commissioners (for a treaty of commerce) of 1697, quoted in the *British Merchant*, ii. 411, Sir George Downing made report to this effect on March 9, 1675, 'to the lords of the Privy Council, then a Committee of Trade.' For the life of Downing, see the *Dictionary of National Biography*. His education was received in Harvard College.

[2] Tindal's continuation of Rapin's *History of England* (1746), xxv. 14.

[3] Echard, p. 920.

[4] *History of England*, ch. x., i. 633.

[5] *Parliamentary History*, iv. 707.

—afterwards 'one of the most zealous of the adherents of the Prince of Orange'[1]—reminded the House that 'the French abstract one million yearly from us in trade.' He declared that while that went on France would govern English counsels everywhere; and accordingly he cried out, 'Make a law to prohibit French trade: you need no wine and few of his commodities; and France will grow poor, and we shall grow rich.'[2] The advice was taken: an Act was passed in the session of 1678 (29 & 30 Car. II. c. i.)[3] absolutely prohibiting the import of 'French Wine, Vinegar, Brandy, Linnen, Cloath, Silks, Paper, or any Manufactures made of or mixed with Silk, Thread, Wool, Hair, Gold or Silver or Leather, being of the Growth, Product, or Manufacture of any of the Dominions or Territories of the French King;' and this on the ground, set forth in the preamble, that 'the Wealth and Treasure of the Nation hath been much exhausted by the Importation and Consumption of the French Commodities.' The assent of the lords and of the king was secured by the ingenious device of 'tacking' the Bill to another granting a poll-tax. The honour of having introduced it was attributed in the next generation[4] to William Sacheverell, 'an orator' who was now beginning to create that reputation for 'great parliamentary abilities'[5] which lingered among Whig traditions far into the eighteenth century. Of the details of the proceedings we know nothing, save what Roger North informs us of 'the prodigious Industry and Diligence, used by the Leaders of the Country Party.'[6]

I was told by one of them that they took occasion, and, with much ado, prevailed, to have certain general Books of the Custom-House Accounts laid before the House, and being desirous to be Masters of them, which could not be in that short Time as was allowed for them to lie upon the Table to be perused by the

[1] Macaulay's *History*, chap. x., i. 646.
[2] *Parliamentary History*, iv. 888.
[3] *Statutes of the Realm*, v. 852.
[4] Davenant, quoted by the *British Merchant*, iii. 63.
[5] Macaulay's *History*, ch. x., i. 633.
[6] *Examen*, p. 468.

Members, they took an Opportunity, and imployed Stationers, who decomposed the Books, and dispersed them to be transcribed by many Hands, and, after the Copies finished, had the Books bound up again, and laid upon the Table in less than forty-eight Hours time: and so the Party had a compleat Inspection in their own Time, and the Matter was never discovered.

There was more zeal for such investigations then than there would have been a few months later, when every head was full of the Popish Plot.

Already, however, the cry of alarm was beginning to call forth reassuring argument. An anonymous pamphlet appeared in 1677, thus entitled: 'England's Great Happiness; or a Dialogue between *Content* and *Complaint*; wherein is demonstrated that a great part of our Complaints are causeless, and we have more Wealth now than ever we had at any time before the Restauration of his sacred Majestie. By a real and hearty Lover of his King and Countrey.'[1] This little tract of eighteen pages touches upon all the 'complaints' of the time—'People's over high living, the too many Foreigners, the Enclosure of Commons, and the multitude of people that run into trade'—as well as the 'carrying the Money out of the Nation,' though that is put first; and only a few paragraphs are devoted to the question of trade. But in these few paragraphs, it is not too much to say, appear the germs of most of the 'liberal ideas' of the better known writings of the end of the century. The author had two main considerations to urge, apparently: first, that the payment of specie to France did not matter, so long as England was able to get it by trade from other nations:[2] secondly, that there was no reason for anxiety, so long as the 'signs of wealth'[3] abounded in every direction. The

[1] Reprinted by McCulloch in *Early English Tracts on Commerce*.

[2] Comparing the nation with a lawyer who would not refuse to buy meat from a butcher although the latter declined to 'truck' with him 'for indentures,' he says, 'If you get money enough of others, you care not, though you give it away *in specie* for these things: I think 'tis the same case.' *Ibid.* p. 261.

[3] This is the marginal abstract of the following passage, which is worth quoting because it anticipates so very distinctly the line of argument

latter is, of course, the more fundamental consideration. As to the former, it is necessary to observe both that the argument itself is not quite so enlightened as it may look at first sight, especially when summed up in the phrase 'To export money our great advantage;'[1] and also that it is closely affiliated to earlier 'mercantilist' teaching.

He still holds that 'that honest way that finds most employment and gets most money is sure the best for any Nation;'[2] he still thinks of money received for exports as 'enriching us;'[3] as to the French 'I must confess,' he says, 'I had rather they'd use our goods than money.'[4] That is, he still believes in the desirability of a favourable balance on the national commerce as a whole, though he can console himself for an unfavourable balance in the trade with a particular country. Perhaps—though this is not quite clear in what he says of France—he regarded particular unfavourable balances as sometimes necessary to secure a general favourable balance. But, even thus interpreted, his thought shows scarcely any progress on Mun, whose

taken by later writers: 'The sum of all is this: If we have brave Magazines for War and multitudes of brave Ships; if we have a Mint employ'd with more Gold and Silver than in a considerable time they can well coin; if it be an affront to cause any one to drink in any worse metal than Silver; if great part of our utensils be of the same; if our Trade be stretched as far as any Trade is known; if we have six times the Traders and most of their Shops and Warehouses better furnished than in the last Age; if we have abundance of more good debts abroad than credit from thence; if many of our poor Cottagers children be turn'd Merchants and substantial Traders; if our good Lands be made much better and our bad have a six-fold improvement; if our Houses be built like Palaces, over what they were in the last Age, and abound with plenty of costly furniture; and rich Jewels be very common; and our Servants excel in finery the Great ones of some Neighbour-Nations; if we have most part of the trade of the World, and our Cities are perhaps the greatest Magazines thereof; if, after a destructive plague and Consuming fire, we appear much more glorious; if we have an universal Peace, and our King in such renown that he is courted by all his Neighbours, and these only the marks of poverty, then I have been under a great mistake.' *U.S.* p. 271.

[1] At the head of the Table of Contents.

[2] *Ibid.* p. 262.

[3] *Ibid.* p. 259.

[4] *Ibid.* p. 261.

'England's Treasure by Forraign Trade' had been printed posthumously in 1664. The prime purpose of that treatise had been to defend the action of the East India Company in exporting silver; but the 'seed-time and harvest' argument was capable of much wider application. Mun had himself declared: 'There are many Countreys which may yield us very profitable trade for our mony, which otherwise afford us no trade at all, because they have no use of our wares;'[1] and at the head of one of his chapters he had laid down the broad proposition, 'The Exportation of our Moneys in Trade of Merchandize is a means to encrease our Treasure.'[2] The author of 'England's Great Happiness' refers to Mun, and follows him in his account of the East India Trade.[3] When he goes on to the more burning question of French trade, he is evidently carried along by the same train of thought. But he makes no attempt to connect this with his other argument—the appeal to visible prosperity. His first argument, then, is a resort to the idea of a general balance as against that of a particular one: his second argument is a *reductio ad absurdum* of Overbalance, and not a refutation.

The Government of Charles II. could do nothing but submit. In his speech at the opening of the session of the new Parliament in 1679, the king expressed the vain expectation that Parliament would 'some way make up the loss I sustain by the prohibition of French Wines and Brandy, which turns only to my prejudice, and to the great advantage of the French.'[4] It is also clear, from the anonymous 'Britannia Languens' of 1680, that it was now pretty generally believed that English trade was 'sufficiently regulated by our late Prohibition of French Goods;'[5] although the

[1] Reprint of 1895, p. 26.

[2] *Ibid.* p. 19.

[3] 'About this *India* trade you may see more at large by ingenious Mr. *Mun;* and a Letter call'd The *East India* trade a most profitable trade to the Kingdom, printed 1677.'

[4] *Parliamentary History*, iv. 1086.

[5] P. 276; though the author believed it needed positive encouragement in certain ways which he sets forth, even more than mere protection.

merchants, in anticipation of the prohibition, are said to have 'imported a Store of French Goods to the value of about a Million.' [1]

Upon the accession of James II. the opportunity arrived for the Court to get rid of the Act. As originally passed, it was only to last for three years and to the end of the next session of Parliament. But Charles had dispensed with a Parliament since 1681, and it was irksome to wait till the end of the session. The new House, elected in the midst of the revulsion of feeling caused by the Rye House Plot, and after a general reconstitution of borough governments in the interest of the Court, was strongly Tory ; and, apparently, no opposition was offered to the proposal at once to repeal the Act.[2] In its place a heavy, though not prohibitive, tariff was imposed.[3] Yet, if we may trust a later account, 'such were the Apprehensions and Convictions which the House of Commons entertained of the pernicious Consequences thereof that about the same Time they appointed a Committee to consider of the Means to keep up the Price of Wool ; and, to that End, resolved that all Persons should wear the Woolen Manufactures six months in the year.' [4] It is significant that Sir Dudley North presided over the Committee of the Whole House in Supply, and that he resisted, and, of course, successfully, the proposal to increase the duty on French wines so as to make it prohibitive.[5] It may be noticed also that Charles Davenant (who had been appointed one of the Commissioners of Excise in the Tory reaction of 1683, at the age of twenty-seven, and lost office again at the

For a contemporary expression of satisfaction, see An Account of the French Usurpation upon the Trade of England, &c., in a letter by J. B., 1679, quoted in Smith, *Memoirs of Wool*, i. 330 : 'How the Balance of Trade stands between *England* and *France* is worthy of your grave Consideration. The Parliament, with great Wisdom and Judgment, hath prohibited *England* all Trade or Commerce with *France*.'

[1] *Britannia Languens*, p. 379.

[2] 1 Jac. II. c. 6 ; *Statutes of the Realm*, vi. 10.

[3] 1 Jac. II. c. 5 ; *Statutes*, vi. 7.

[4] The *British Merchant*, as quoted by Smith, *Memoirs*, i. 378.

[5] *Parliamentary History*, iv. 1383.

Revolution) was among the members of this first Parliament of James II.

The repeal of the prohibition was followed—so the Whig journalists assure us a quarter of a century later[1]—by 'an inundation of French commodities to the value of above four millions sterling, within the compass of less than three years, whereby all the evils formerly complained of were renewed, insomuch that the nation would have been soon beggared, had it not been for the happy revolution in the year 1688, when all commerce with France was effectually barred' once more.

The Act of 1688 'prohibiting all trade and commerce with France' was probably passed with practical unanimity. Men of all parties, save a few extreme adherents of James II., were for the time united. They were resolved to resist all the efforts of Louis XIV. to reimpose their fallen sovereign upon them, and those who gave no credence to the cry of Overbalance were ready to acquiesce in the prohibition as a war measure designed to injure France. The Act makes use for its preamble of the sentences which had introduced the prohibition 'tack' to the Act of 1678: 'It hath been found by long experience that the importing of French Wines, Vinegar, Brandy, Linnen, Silks, Salt, Paper, and other the Commodities of the Growth, Product, or Manufacture of France, . . . hath much exhausted the Treasure of this Nation, lessened the value of the native Commodities and manufactures thereof, and greatly impoverished the English Artificers and Handycrafts and caused great detriment to this Kingdom in general.' But this is preceded by the war reason: 'Forasmuch as your Majesties . . . have been pleased to declare an actual War with France.'[2] The prohibition took effect on August 24, 1689; and so well was it enforced that on June 16, 1690, the Commissioners of Customs represented to the Lords of the Treasury that 'by the prohibition of the French trade several of the

[1] Anderson's account (in Macpherson, ii. 620) is from the *British Merchant*, and follows the passage quoted in the last note but one.

[2] 1 Gul. & Mar. c. 34; *Statutes*, vi. 98.

ports that be opposite to France are wholly destitute of any receipt.'[1]

The Act, like that of 1678, was to run for three years and the following session. It was renewed in 1692; but now to the three years' limitation, once more renewed, were added the significant words, 'if the present war with France shall so long last.'[2] The glow of resentment against James had by that time faded away: the Tories were beginning to be tired of the war; and they, at any rate, were ready to remove the prohibition when the war came to an end. When the Act lapsed, the war had practically ceased; and, accordingly, the prohibition was not renewed. In its stead an Act was passed, 1695-96, in its form closely resembling the Tariff Act of 1685, but in reality probably a compromise between the two opposing views. It imposed, for a term of twenty-one years, a duty of 25*l.* on every tun of wine, 30*l.* on every tun of French brandy of single proof, and 60*l.* on every tun of double proof, and 25 per cent. *ad valorem* on all other French goods—all these in addition to such impositions as already stood on the Book of Rates.[3] Duties such as these must have almost excluded French commodities,[4] even though they were no longer prohibited; and the measure may fairly be regarded as a compromise in which the traditional Whig policy was still predominant.

Let us now look at the literature of this second period of prohibition, 1688 96. It was a time prolific in economic pamphlets; but, as we might expect, scarcely any of them were directly called forth by the question of trade with France. This was a matter on which the minds of almost all politicians were, for the time, made up; and pamphleteers

[1] *Calendar of Treasury Papers*, 1557–1696, p. 121.

[2] 4 Gul. & Mar. c. 25; *Statutes*, vi. 419.

[3] 7 & 8 Gul. III. c. 20; *Statutes*, vii. 97.

[4] So also Dowell, *History of Taxation*, iv. 120, thinks as to wine. He gives some figures, according to which the average import of wine from 1699 to 1702 was: from Spain and the Canaries, 9,039 tuns; Portugal, 6,897; Italy, 1,508; and France, 1,245.

seldom addressed themselves to any but 'living issues.' Two subjects of more immediate interest were the East India Trade and the Currency. But the East India Company was naturally regarded, since Sir Joseph Child had made his peace with Charles II., as a Tory corporation;[1] and the attacks upon it came mostly from Whigs. Its Tory defenders found themselves obliged to repeat over and over again the old argument of Mun—that *particular* trades should not be judged harmful merely because the balances in those cases taken by themselves might be unfavourable. But, while defending the East India Company, it was natural to cast a side glance from time to time on that other trade which common opinion regarded as harmful—namely, the French trade. We can readily see how some writers would be tempted to go further, and seek to discredit the very idea of the Balance, even though they were unable to directly disprove its validity. The proposed reduction of the legal rate of interest was also a subject of a good deal of concern to many, and the reform of the currency was a matter of pressing need. It would take too long to show how, even on topics like these, men of different political parties were very apt to take different sides.[2] They were also pretty sure to be drawn on to express their opinions on trade in general; and, in doing so, they were likely enough to be influenced by the traditional views of their political associates.

Of all the writers of the time, Sir Josiah Child, whose 'New Discourse on Trade' appeared in 1690, was the most immediately influential, and contributed more than any one else to discredit the doctrine of the balance.[3] As to 'particular

[1] Cf. Macaulay's *History*, ch. xviii.

[2] Thus Child and North both disliked the new 'trade of bankering,' as did Hume half a century later; and North and Locke differed in their proposals for the recoinage.

[3] Child's *Brief Observations concerning Trade and Interest of Money* was published in 1668. In 1690 it was reissued, with ten additional chapters, including one on the Balance of Trade, as *A New Discourse of Trade*. A second edition was called for in 1694. The references here given are to the fourth, undated, edition.

and distinct Trades,' he did but follow Mun and the author of 'England's Great Happiness.' The 'rule' that the balance of gain in trade could be determined by the comparison of exports with imports is 'fallible and erroneous' as to particular trades, because 'a true measure of any particular Trade, as to the profit or loss of the Nation by it, cannot be taken by the consideration of such Trade in itself singly, but as it stands in reference, and is subservient, to the general Trade of this Kingdom.'[1] But he does not stop here. He minimises the value of the rule as a test even of the balance of 'the general Trade'—and this for a reason which was likely to have weight with untheoretic and practical-minded Englishmen. 'If the difficulty of the scrutiny whereby to reduce it [the rule] into practice and the many accidents that may accrue be seriously weighed, it will appear too doubtful and uncertain.'[2] He proceeds to point out the inadequacy of the custom-house books as furnishing data whereon to form an opinion. Nor can the rate of exchange be relied upon as a criterion, for reasons of the same practical character—because 'it is subject to vary on many accidents of emergencies of State and War,' and because there are some countries with which 'great and eminent Trades' are carried on and yet with which there is no settled course of exchange.[3] He concludes, again agreeing with 'England's Great Happiness,' that 'the best and most certain discovery of national gain or loss in trade is to be made from the encrease and diminution of our Trade and Shipping in general;' i.e. from the large and obvious facts of commercial prosperity or decline.[4]

[1] *New Discourse*, p. 170. [2] *Ibid.* p. 165. [3] *Ibid.* p. 175.

[4] 'Discoursing once with a Noble Lord,' the latter had asked him whether 'the Affairs of a Nation' and those of a private person did not greatly resemble one another, and, if so, whether a private merchant might not *seem* to drive a great trade and yet grow poorer. This was a frequent argument of the other side. Thus Locke: 'We may trade and be busy, and grow poor by it,' in *Considerations*, p. 571; cf. Temple, *Observations upon the United Provinces* (1672), 7th ed., 1705, p. 230. Child replies (*op. cit.* p. 177): 'That man who drives a great Trade, and is Owner or Employer of much Shipping, and does all his days continue and encrease in Trade and Shipping, and his Son or Successor after him,

It is fair to say, then, that Child threw the weight of his name in favour, in general, of a *policy* of commercial freedom. He even pointed towards the way in which this policy could be realised in practical politics: 'The well contrivement and management of Foreign Treaties may very much contribute to the making it the interest of other Nations to trade with us,' [1] thus anticipating the subsequent action of Bolingbroke. Moreover, like not a few 'mercantilists,' Child was in favour of the abolition of almost all existing restrictions on the liberty of internal industry.[2] Up and down this *Discourse* are scattered such gnomic utterances as these: 'Liberty and property conduce to the increase of trade.' 'The common interest of the Nation in general is to buy cheap.' 'All men are led by their interests.' [3] It would be easy to pick these out, associate them with his advocacy of freedom for those branches of foreign trade in which he was himself interested, and make of him a 'forerunner' of Adam Smith—as, indeed, he was in spirit, though only as the mercantilist movement as a whole was a forerunner of Adam Smith and the school of natural liberty.[4] But, unfortunately, Child did not limit himself to two or three pages, like North. He wrote a whole book, and he has himself made it abundantly clear that he shared the fundamental beliefs of the advocates of restraint. He expressly declares the 'notion' or 'rule' as to comparing exports and imports 'not ill grounded,' and says that 'it has much truth in it, was ingeniously and worthily started by him that first published it [Mun ?], and much good has

and after him his Grandson, &c., this would be an indisputable evidence that such person or family did thrive by their Trade. . . . This is the case of Nations, and this, through God's goodness, is the case of England, as bad as we are at present.' Cf. p. 179: 'If our Trade in the gross bulk of it . . . do still increase for a long tract of years, it is an infallible proof of our thriving by our Trade, and that we are getting more tools, more stock, to trade with.'

[1] *Op. cit.* p. 187.

[2] E.g. *Ibid.* Preface, pp. lxi-lxii, 159–161, 182.

[3] *Ibid.* pp. 67, 116, 119.

[4] The transition may be observed in, e.g., Gournay's pleasure in the writings of Child and de Witt, as described in Turgot's *Éloge de Gournay.*

accrued to the Kingdom by our Law-makers resenting it.' [1] As to the other criterion, 'the consideration of the course of the Exchange,' that also 'may be of use and very necessary in many respects.' This might be the language of complaisance, meant to disarm criticism; but when we find Child in favour of 'restraining the trades of our own plantations wholly to England,' [2] of preventing the exportation of wool,[3] and, what is more, of discouraging the importation of commodities from Venice and the Canaries because they were, 'for the most part, purchased with ready Money' [4]—i.e. the very reason for which others urged the prohibition of the East Indian and French trades—we realise that it was not superior insight that distinguished Child from the Houblons and Godfreys. If Child had been a Whig director of the Bank of England instead of a Tory director of the East India Company, we should doubtless have found him writing on the other side.

To the same year, 1690, belongs Barbon's earliest treatise on commerce, likewise entitled 'A Discourse of Trade.' [5] In this 'Prohibitions' are put down as one of the two chief causes of the decay of trade. It is argued that 'the prohibition of any foreign commodity doth hinder the making and exportation of so much of the native as used to be made and exchanged for it.' As against 'the common argument' that the consumption of foreign commodities hinders the consumption of the native, he maintains that the demand for foreign commodities is not due to need, but to the wants of the mind [6] and mere fashion, taking French silk stuffs for his

[1] *Op. cit.* p. 165. For the way in which such language was understood by contemporaries, see Davenant, *Works*, ii. 96.

[2] *Ibid.* pp. 183, 209. [3] *Ibid.* p. 183. [4] *Ibid.* p. 189.

[5] As Barbon's *Discourses* of 1690 and 1696 are not at present accessible to me, the following quotations are taken from Dr. Bauer's articles and from the excerpts in Professor Cunningham's *Growth of English Industry and Commerce*, ii. (1892), 243, 244.

[6] Dr. Bauer has laid stress upon Barbon's 'explanation of value by pyschological motives,' referring to his language about the 'Wants of the Mind.' In his earlier *Apology for the Builder* (1685), reprinted in McCulloch's *Miscellaneous Economical Tracts* (for the Political Economy

example. To describe this as 'the ablest refutation of the theory of the balance of trade previous to Hume and Adam Smith' would seem somewhat excessive praise. The first of the two arguments appears perhaps to *involve* the modern doctrine that in the long run exports pay for imports; but Child also had said, 'If we would engage other Nations to trade with us, we must receive from them the fruits and commodities of their Countries as well as send them ours,'[1] without drawing what to us may seem an obvious conclusion. And, as to the second, Barbon was not alone in thinking of foreign commodities as chiefly fashionable luxuries. Herein Locke, for instance, agreed with him; and this was, in fact, a consideration of practical importance in such a case as that to which Locke applied it—namely, to the demand for foreign wines.[2] Barbon himself concedes that, when the importation of foreign wares really hinders the production and consumption of domestic products—in his opinion, a rare case—then duties *may* be imposed in order to prevent their being sold cheaper than the native commodities. In the opinion of many of Barbon's contemporaries, and certainly in the opinion of the Spitalfields weavers, this was precisely the case with French silk.[3] Barbon's concession was nominally in favour of protection as against prohibition; but it is clear that the same principle might logically be appealed to, as in fact it was appealed to, in favour of prohibition, if protection was thought not to suffice.[4]

Club, 1859), the same thought appears, with an indication of the source whence Barbon derived it: 'As their riches increase, so doth their wants. As Sir *William Temple* hath observed, men are better distinguished by what they want than by what they enjoy;' p. 6.

[1] *Discourse*, p. 188.

[2] *Considerations of the Lowering of Interest*, p. 598.

[3] See, e.g., the *Petition from the Company of Silk Weavers* in Smith's *Memoirs*, i. 351.

[4] Thus the *British Merchant* (1713) quoted by Smith, *Memoirs*, ii. 127—estimates the increase in the manufacture of malt spirits, of linens, and of silks in England and Ireland owing to the prohibition; and the *Atlas Maritimus Commercialis* (1727), quoted *ibid.* p. 202, sets forth the growth of the manufacture of hats, glass, hardware, soap, and

That Barbon did not conceive himself to be in possession of any very convincing argument for the absolute refutation of the balance of trade doctrine is perhaps sufficiently indicated by the references to the subject in his later 'Discourse on Coining' (1696). True, he there asserts that 'no sort of Commodities ought to be *totally* prohibited,' that 'the freer the Trade is, the better the Nation will thrive,' and that 'the Poverty and Riches of a Nation does not depend upon a lesser or greater consumption of Foreign goods, nor on the difference of the Value of those Goods that are consum'd.' But his only *argument*, apparently, is an expansion of what we have already found in Child: 'There is nothing so difficult as to find out the Balance of Trade in any Nation; or to know whether there ever was, or can be such a thing as the making up of the Balance of Trade *betwixt one Nation and another*;[1] or to prove, if it could be found out, that there is anything got or lost by the Balance.' The only Balance he has in his mind, it would seem, is the balance on particular trades; and he has special reference to the trade with France.

Those that rely so much upon finding out the Balance of Trade, do it by taking the Computation of the Trade of several years of *one Nation with another*, and think it may be done by examining the Accompt of the Custom-House Books, and us'd to give for Instance the French Trade, . . . and therefore us'd to cry out very much against the French Trade: Tho', perhaps if that were throughly consider'd, the French Trade was as profitable to the Nation as any other Foreign Trade; which might be made to appear, if it were

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bone-lace, as well as of silk, under the same circumstances. These accounts are, no doubt, greatly exaggerated. One result of the prohibition was simply to turn the demand in some other direction. This was evidently the case with wine, now obtained from Portugal and Spain; and it is said to have been the case with linen, now obtained from Holland and Silesia (Macpherson, ii. 693). Such estimates are only referred to here to show how inconclusive Barbon's argument must have seemed to an intelligent Whig. See the speeches in 1713 of Mr. Lechmere and others in Tindal, *u.s.*, p. 18.

[1] The italics are my own.

proper for this Debate. But to make up the Balance of Trade by the Custom-House Books is a very uncertain way of reckoning.

Similarly in the vein of Child, he casts doubt upon the test of the foreign exchanges; for 'Exchanges rise and fall every week' according to such events as 'a Vintage, a great Mart, or some Publick Sale.' And his final conclusion is that the balance of trade is—not a delusion, but—'a Notion that serves rather to puzzle all Debates of Trade than to discover any particular Advantages that a Nation may get by regulating of Trade.'

One word more as to the later treatise. Here Barbon asserts also 'that there is no Occasion to send away Money or Bullion to buy Bills of Exchange or Balance accompts,' and that 'all sorts of Goods of the Value of the Bill of Exchange, or the Balance of the Accompt, will answer the Bill, and Balance the Accompt as well as Money.' But this was not the first time the idea had been put forward: it is to be found in a pamphlet criticised by Locke in 1691. And in both cases it was not so much an anticipation of principles now familiar as—at most—a vague realisation of the fact that, in the long run, goods pay for goods. But what the mercantilists like Locke saw was the short run: they saw that from time to time there were international balances to be paid in money; and Barbon was apparently quite unable to demonstrate how it was that the short-run facts were reconcilable with the long-run facts.[1] We may doubt whether he had any inkling of the solution himself; whether he did not rather stop at the empirical observation of the general result. Certainly, all we know of Barbon's other teachings—that the rate of interest ought to be reduced by law, that 'the coin should be raised,' &c.—is the very

[1] Locke points out that, if England sells goods worth 1,000,000*l.*, and buys goods worth 1,100,000*l.*, 'it is unavoidable that 100,000*l.* of our money must go out. . . . It is ridiculous to say that bills of exchange shall pay our debts abroad. . . . If commodities do not, our money must go out to pay them, or else our credit be lost' (*Considerations*, p. 570). A contention like Barbon's, which seemed to deny every-day business facts, could not be conclusive.

opposite of what we should expect from a man of peculiarly clear insight.

Far better known for the last three-quarters of a century has been Sir Dudley North, whose 'Discourses upon Trade' —the titles of all these writings are monotonously identical —were printed in 1691, forming a thin pamphlet of thirty-eight pages.[1] There is, however, this in common to Barbon and North, and herein they differ from such writers as Child, Locke, or Davenant—that, so far as we can discover, they secured no appreciable notice from contemporaries, and owe their reputation entirely to modern sympathy.

I have already mentioned North's activity in the Parliament of 1685. He had, before that, served as a Commissioner of Customs, and in that office had shown peculiar skill in 'resolving the enigmas' proposed by the Treasury, as to 'why this or that branch fell short.'

> He caused all the accounts of the Custom-house, that he thought useful, to be brought to his house; and there, in a tabular way, he stated all the branches, in the several years, as far back as he thought would be needful; and, in that manner, he brought the whole state of the revenue of the Customs into a synopsis, upon the inspection of which he could argue and infer; and so he made clear answer to their queries; viz. that some were mistaken, others impertinent; some trades had found new channels; prohibitions or high duties affected others. If some failed, others augmented; for such concerns perpetually vary.[2]

Such a man was likely to have the empirical knowledge which would cause him to distrust Whig economics; and, as one of the best hated Tories of the time, he was predisposed to scoff at them. Accordingly, he does so, in the Preface to his 'Discourses,' in the following terms:

> It is not long since there was a great noise with Inquiries into the Balance of Exportation and Importation; and so into the Balance of Trade, as they called it. For it was fancyed that, if we brought more Commodities in, than we carried out, we were in the

[1] I quote from the reprint of 1846.

[2] Roger North's *Lives of the Norths* (ed. 1826), iii. 147.

High-way to Ruin. *In like manner have we heard much said against the* East-India *Trade, against the* French *Trade, with many other like politick conceits in Trade; most of which, Time and better Judgment hath disbanded.*[1]

And he goes on to assert a number of propositions, of which the first three are as follows:

The whole world as to Trade is but as one Nation or People, and therein Nations are as Persons.

The loss of a Trade with one Nation is not that only separately considered, but so much of the Trade of the world rescinded and lost, for all is combined together.

There can be no Trade unprofitable to the Public; for if any prove so, Men leave it off; and wherever the Traders thrive, the Publick, of which they are a part, thrives also.

North, then, must be credited with having protested against some of the fundamental ideas underlying the Whig policy. But we must take care not to over-estimate his scientific merit in this respect. The first two, for example, of the above propositions, assert little more than the mutual advantage of international trade. But this was a trite observation which many writers made, especially when branches of trade were hampered in which they were themselves interested, without being in the least inclined to draw from it the theoretic conclusions which seem so inevitable to modern free traders. That 'the whole world as to trade is but one people, and therein nations are as persons'—much as the utterance has been commended—is not a whit finer than Mun's comparison of the trade of the world to the body, with its members each 'accomodating' the other; and no one has yet attempted to make Mun out a theoretic free trader.[2]

[1] His own italics.

[2] 'The use of forraign trade is alike unto all *nations*. . . . In some countries we sell our commodities and bring away their wares, or part in money; in other countries we sell our goods and take their money, because they have little or no wares that fit our turn; again, in some places we have need of their commodities, but they have little use of ours, so they take our money which we get in other countries; and thus

Certainly, one preliminary misconception must be cleared out of the way. His brother, Roger North, tells us that the pamphlet was 'utterly sunk, and a copy not to be had for money,' and remarks, 'If it was designedly done, it was very prudent.'[1] McCulloch, after characterising North as 'the intelligent advocate of all the great principles of commercial freedom,' mentions the disappearance of the tract in such a way as to imply that it was suppressed on account of its free-trade views.[2] This is the conclusion actually drawn in a work of reference so generally trustworthy as Conrad's 'Handwörterbuch,' with the addition that it was North himself that suppressed it, as perhaps McCulloch's account might suggest.

> Supposing that the economic consequences of the Revolution would be a victory of the principle of free trade, he published his treatise in 1691; but he was obliged only too soon to yield to the conviction that the result of the Revolution would rather be the extremest intensification of protectionist measures. This turn of affairs induced him, out of regard to his social well-being, . . . to get rid of this printed evidence of his free-trade opinions by buying up and destroying the whole edition.[3]

All this does but illustrate the growth of myth. North was, indeed, not impressed by the spectre of Overbalance, as the other party held it up, nor did he favour the Whig policy of prohibition; and he did not hesitate to say so. Nor, as we have seen, did other people. But the main purpose of his treatise was not to deal with foreign commerce, but, as the title-page plainly tells us, was 'principally directed to the Cases of the Interest, Coynage, Clipping, and Increase of

by a course of traffic (which changeth according to the occurrents of time) *the particular members do accomodate each other, and all accomplish the whole body of the trade*, which will ever languish if *the harmony of her health* be distempered by the diseases of excess at home, violence abroad, charges and restrictions at home and abroad.'—*England's Treasure*, p. 47; my italics.

[1] *Lives of the Norths*, p. 173. [2] McCulloch's *Discourse*, pp. 37–39.

[3] *S.v.* North. The writer adds to the motives a regard for his 'amtliche Unbescholtenheit.' But he was no longer in office.

Money.' He is very explicit in his preface. After saying, in the passage already quoted, that 'most' of the 'politick conceits in Trade Time and better Judgment hath disbanded,' he continues:

but others succeed in their room, according as new Persons find Encouragement to invent. . . . And now we complain for want of Money in specie, that Bullion is Exported or misemployed to other uses than making Money; and ascribe the deadness of Trade, especially of Corn and Cattel in the Country, to this; and hope by a Regulation of the Bullion-Trade, and stinting the Price, except it be in Money, to make a thorough Reformation.

It was the problem of the currency, especially in its relation to bullion, that he had in his mind; as any one can see who takes the trouble to read through the 'Discourses.' The chief practical matter on which he took issue with the administration was the policy of 'free coinage,' and as to this he did not mince his words: 'The Nation hath been abused, and made to pay for the twisting of straw, for Asses to eat.'[1] But it was not only or originally the Revolution government that he found fault with in this matter: it was, as Roger North makes quite clear, the law passed in 1685[2] (or, rather, continued from 18 Car. II.) that first moved his ire. He was 'scandalised' also, says his brother, 'at clipped money,' and 'resolved to bid battle to this popular delusion.'[3] These were the main reasons for publishing his pamphlet. And Roger North explains the disappearance of the pamphlet by the circumstance that in the actual reformation of the coinage the government did not follow Dudley's advice. 'Of the two ways, exposed by Sir Dudley North, the fabricators of that bill chose the worse; for they threw the loss of the clipped money upon the public by a tax.' If the pamphlet was 'designedly sunk,' 'it was very prudent; for the proceeding is so much reflected on there for the worse, and a better showed, though not so favourable to abuses, as doth not consist with that honour

[1] *Op. cit.* p. 18. [2] 1 Jac. II. c. 7; *Statutes*, vi. 10.
[3] *Lives of the Norths*, iii. 168.

and *éclat* as hath been held forth upon the occasion.'[1] Surely Roger North is hinting that *the government* suppressed the pamphlet; for the Recoinage Act was not passed till 1695, and North died in 1691.

When, with these facts in mind, we look at the propositions set forth in the preface, and so lauded by McCulloch as a summary of 'sound views of political economy,' it becomes probable that most of the fourteen have no general reference to commerce at large, but a special reference to the immediate coinage question. To seek to show this at length would involve an excursion into the thorny field of currency history, from which, with the fear of Mr. Shaw and Mr. Walsh before our eyes, we may well recoil. But two examples will suffice. It is hard to read, 'No Laws can set Prices in Trade' and 'Money is a Merchandise,' without at once interpreting them as we should if we found them in the 'Wealth of Nations.' But what Dudley North meant by them we may learn from the account given by his brother Roger, who was his intimate companion.

> Another thing which gave him great offence was the currency of clipped money. He *looked upon coined money as merchandise* only (for better proof and convenience) used as a scale having its supposed weight signed upon it, to weigh all other things by; or as a denomination apt for accounts. But, if the weight of it differed from its stamp, it was not a scale, but a cheat, like a piece of goods with a content stampt, and divers yards cut off. And, as to the fancy that common currency might reconcile the matter, he thought that when a man takes a thing called a shilling, putting it off, it is also called a shilling nominally—true; but, as to the deficiency, it is no other than a token or leather money, of no intrinsic, by what name soever it be called; and that *all markets will be regulated accordingly*; for as money is debased, *prices rise*, and so it all comes to a reckoning.[2]

Finally, we must not unduly extend the significance even of those propositions which do bear directly on foreign trade, and which have already been quoted. I am not at all sure

[1] *Lives of the Norths*, iii. 173.
[2] *Ibid.* The italics are added.

that North meant anything more by them than what we have already found in Child and others—that a particular trade cannot be properly judged of by itself. Roger North, who surely was likely to know what was in his brother's mind, gives us the following exposition of his views:

> Trade is not distributed, as government, by nations and kingdoms; but is one throughout the whole world; as the main sea, which cannot be emptied or replenished, in one part, but the whole, *more or less*, will be affected. So when a nation thinks, by rescinding the trade of any other country, which was the case of *our prohibiting all commerce with France*, they do not lop off that country, but so much of their trade of the whole world as what that which was prohibited bore in proportion with all the rest. . . . And as to pretending a loss by any commerce, the merchant chooses in some respects to lose *if by that he acquires an accommodation of a profitable trade in other respects. As* when they send silk home from Turkey, by which they gain a great deal, because they have no other commodity wherewith to make returns. *So* without trade into France, whereby the English may have effects in that kingdom, they could not so well drive the Italian, Spanish and Holland trades, for want of remittances and returns that way.[1]

There does not seem anything more here than a criticism of the particular-balance idea; and, for the immediate Tory purpose of furnishing an argument against the prohibition either of French or of East Indian imports, nothing more was needed. Even North—while explaining that 'no man is richer for having his estate *all* in Money lying by him'[2]—nevertheless uses language about money being 'a proper Fund for a surplusage of stock to be deposited in,'[3] which could easily lend itself to a general-balance argument.[4]

[1] *Lives of the Norths*, i. 352. [2] *Discourses*, p. 11. [3] *Ibid.* p. 16.

[4] [Since the above was first printed, I have noticed that Mr. Craik, in his *History of British Commerce* (1844), ii. 216, had already written thus: 'The immediate object of the work was to oppose the Government plan (which was that ultimately adopted) of throwing the cost arising from the clipt money upon the public; and Sir Dudley's brother and biographer, Roger North, hints that means were taken to suppress it.' But Mr. Craik goes on to admire his 'statement and elucidation of all

There is one writer of the opposite political camp who must not be overlooked—John Locke. Locke's 'Considerations of the Consequences of the Lowering of Interest' were written in the main about 1672; but additions were made in 1690, and probably the whole revised before it was published in November 1691. In this tractate Locke defends most strenuously the doctrine of the balance; yet nothing is more curious than the way in which, after he has once embarked on his exposition of the 'quantity theory' of money, he seems to approach within sight of the conclusion which Hume afterwards drew. An unfavourable balance he sees will make foreign commodities relatively dear; but, on the threshold of the conclusion that this would set the current flowing the other way, he stops short, and gets back to his mercantilist foundation by means of the weak argument that such an unfavourable balance 'endangers the drawing away of our people, who are apt to go where their pay is best.'[1] No one would accuse Locke of intellectual dishonesty. We cannot but remember, however, that he was the intimate friend of Shaftesbury; that one of the last acts of his patron before he fell from office was to appoint him Secretary to the Council of Trade and Foreign Plantations; that he held this office from October 1673 to March 1675—the very period when the prohibition policy first took shape; that his 'Considerations' were addressed to Lord Somers; that he was a large subscriber to the Whig Bank of England; and, finally, that he was 'the presiding genius' from 1696 to 1700 in that new Board of Trade and Plantations which had among its chief duties 'to examine what trades are or may prove hurtful and what beneficial to this kingdom, and by what means the advantageous trades may be improved and those that are prejudicial discouraged.'[2] It is not, per-

the leading principles of commercial and economical science.' It may be added that to question the wisdom of the procedure of William's government in the restoration of the currency was long the practice of Tory writers: e.g. Hume, *Essays*, No. 25 (ed. Ward, Lock, & Co., p. 171 *n.*)].

[1] *Considerations*, pp. 591, 592. [2] Macpherson, ii. 682.

haps, unfair to say that, as the eyes of Tory pamphleteers were made more penetrating by party prepossessions, the eyes even of a great philosopher who was a Whig might also be dimmed by party prepossessions.

We come now to the last stage in the history of the period under consideration. The period of high duties lasted from 1696 to 1704. After peace was signed with France in 1697, there were not a few, especially among the Tories, who were ready to carry out the suggestion of Child, and enter into a treaty of reciprocity with France. Negotiations were begun, and a French envoy visited England; but neither government was ready to make adequate concessions in its tariffs, and the negotiations were fruitless.[1] In 1704, most of the ultra-Tories having been removed from the ministry, and Parliament being once more resolved upon an energetic conduct of the war, the prohibition was renewed, with the old Whig preamble, and to last 'during the present war with France.'[2] As soon as the Tory reaction took place, in 1710, the new ministry, reverting to the old policy of the party, began to feel its way both to a peace and to a treaty of commerce. The fate of this treaty is a matter of general knowledge, and has already been referred to. Beyond 1713 I do not now propose to follow the progress of events.

As soon as the commercial articles of the Treaty of Utrecht became known, there was a war of pamphlets and, what was a novelty, of journals, with the 'British Merchant,' subsidised by Halifax,[3] on the Whig side, and the 'Mercator,' subsidised by Bolingbroke and written chiefly by De Foe, on the Tory side. Bolingbroke was ready to avow that, for his part, he entered into these negotiations 'more in the character of a statesman than of a merchant;' that his chief purpose was to overcome the long estrangement between the two

[1] Macpherson, ii. 693. [2] 3 & 4 Annæ, c. 12; *Statutes*, vii. 360.

[3] Preface (p. xvii) of 1721 reprint of *The British Merchant or Commerce Preserved*: 'My Lord Halifax was the support and very spirit of the paper called the B.M., . . . out of his Liberality subscribed very largely to this Work, a considerable sum being raised to carry it on.

nations, which the old commercial jealousy had encouraged. 'Nothing unites like interest; and, when once our people have felt the sweet of carrying on a trade to France, under reasonable regulations, the artifices of Whigism will have the less effect amongst them.'[1] But his literary champions had to make out an economic case against the Whigs; and usually, it would seem, they took the line already pointed out by Child and Barbon, of calling in question the custom-house statistics.[2] It would be worth while to enter in some detail into the arguments of the two sides; but that task must be postponed to another occasion.

During the whole period 1695–1712 the writer most worthy of attention was Charles Davenant. Davenant is not only the most voluminous, but also, in my opinion, the most considerable of all the Tory advocates of 'free trade.'[3] To do him justice, it would be necessary to devote a separate essay to him; while to determine how far he was consistent would involve a more careful examination than has ever yet been made of all the several phases and *nuances* of what we call 'Mercantilism.' It will be sufficient here to call attention to a few only of the more noticeable features of his writings.

As with Child, we find in Davenant's writings many utterances which, if they stood by themselves, we should interpret as implying a thoroughgoing free-trade theory in

[1] Bolingbroke's *Letters* (ed. 1798), iv. 141, 153.

[2] I have been unable to see a copy of the *Mercator*, but the *British Merchant*, ii. 49, quotes it as denying 'that any accounts from the Custom House can give a true Scheme of the Trade of France, or so much of a Scheme as to make a rational Conjecture from.'

[3] In the contemporary sense of the term; as when, in a debate in 1713, 'Mr. *Arthur Moore*, one of the Commissioners of Trade, and whose skill and knowledge the *British* Ministry had chiefly relied on in drawing up the treaty, endeavoured to show the great advantages that would accrue to the Nation from a free trade with France' (Tindal, *u.s.*, xxv. 17). It is possibly worth while observing that the term 'free trade' was also used as a contrast to trade carried on by privileged companies. This had been the commonest use of the term in the preceding century. Some examples will be found in von Heyking's *Zur Geschichte der Handelsbilanztheorie*, p. 86.

the modern sense—utterances which quite deserve to be set by the side of those of North. Thus: 'Trade is in its nature free, finds its own channel and best directeth its own course;'[1] 'Wisdom is most commonly in the wrong when it pretends to direct nature;'[2] 'We understand that to be wealth which maintains the prince and the general body of his people in plenty, ease, and safety;'[3] 'Money is at bottom no more than the counters with which men in their dealings have been accustomed to reckon.'[4]

Then, again, the argument against the balance doctrine as the Whigs held it takes just the same form as with Mun and Child and Barbon and North—the appeal from the particular to the general: 'We may seem to lose by the balance in one place, but perhaps that trade may be the cause of another twice as profitable. So that to object against the motion of one wheel without knowing and seeing how the whole engine moves is to no manner of purpose.'[5] There is the same recourse as by earlier writers to the obvious facts of industrial and commercial life: 'He that would compute with any good effect in matters relating to trade must contemplate the wealth, stock, product, consumption, and shipping,' as well as the 'exportations and importations of his country.'[6]

These two ideas Davenant applies with much elaboration to the problem of trade with France. He deals with this incidentally in a 'Discourse on the East India Trade,' written in 1698, in which, apropos of the proposed restriction upon East Indian calicoes, he is confronted with the doctrine of the balance, and its most popular example—the case of France. He deals with it at greater length when, having been appointed Inspector-General of Exports and Imports in 1705,

[1] *Works*, i. 98. [2] *Ibid.* i. 104. [3] *Ibid.* i. 381.
[4] *Ibid.* i. 355. [5] *Ibid.* i. 147.
[6] *Ibid.* i. 147. In i. 355–357 is an enumeration of the 'symptoms' of a nation's 'growing wealthy,' ending with the words: 'What we have here enumerated are not only the signs of a prosperous people, but may be accounted national stock, and as well esteemed riches as our own coined money, foreign coin or imported bullion.'

it became his duty in 1712 to present official reports to the Commissioners for Accounts, in preparation for the proposed commercial treaty. It is a complete misunderstanding, and an injustice to Davenant, to suppose that 'after his return to official employment he did not venture to disturb current economic ideas.'[1] After his return to official employment he had a unique opportunity to assist in carrying into effect the policy of freer intercourse with France, which he had all along advocated; and he took full advantage of it.

In his 'Discourse' of 1698 he grants that after Colbert imposed his high tariff 'our dealings thither began to grow very disadvantageous to this nation,' but 'whether' it was 'in the degree commonly reckoned seems,' he remarks, 'at least very doubtful;'[2] and this he produces some statistics to show. But, 'now the peace is concluded,' 'it is hoped that, upon mature consideration, both kingdoms will think it their mutual interest to meet upon more friendly terms.'[3] He quite accepts what Child says 'in his excellent "Discourse" on the Balance of Trade,' both about the difficulty of using custom-house statistics and the 'usefulness' of the 'notion' of the balance, if only all the circumstances are adequately known.[4] And when he comes, thirteen or fourteen years later, to write his 'Reports,' that is the line he takes. He proves to his own satisfaction, first, that the figures of 'the Old Scheme' of 1674, and still more those of Fortrey, were grossly exaggerated; and, secondly, that, 'whatever overbalance France in *particular* might have upon us, . . . it is evident beyond all dispute that England was every year a gainer in its *universal* trade.'[5] He ends with the conclusion that, 'if both kingdoms can agree upon *just and equal duties* to be laid on their respective commodities, *a free trade* with France can never be dangerous to England.'[6]

[1] Palgrave's *Dictionary*, s. Davenant. [2] *Works*, ii. 97.
[3] *Ibid.* ii. 98. [4] *Ibid.* ii. 96. [5] *Ibid.* v. 363.
[6] *Ibid.* v. 385. And yet, like Child, Davenant can, upon occasion, argue the disadvantageousness of trade with a particular country on the narrowest 'balance' considerations; *e.g.* 'The Norway and the Baltic trades have always drained us of money,' *ibid.* i. 397.

Enough has been said to indicate the natural connection during the whole period, 1673 to 1713, between the advocacy of a 'free trade' policy and the Tory party. In the course of the exposition something has perhaps been done to show the substantial similarity of ideas in all the Tory writers, and to render it probable that not one of them really saw his way to a 'refutation' of the fundamental idea of the *general* balance. This it was left for another Tory, a good deal later, to produce, viz. David Hume; and it is interesting to observe that his theoretic refutation of the balance doctrine was not suggested by any of his Tory predecessors, but by the 'quantity theory' of the Whig Locke.

The history of economic literature in England in the period 1713 to 1776 has yet to be written; but it is perhaps even now possible to say of Adam Smith that his significance lies not only in the completeness with which he carried a free-trade *theory* into all the details of a practical *policy*, but also in the fact that he did more than any other writer to bring over the free-trade policy from the Tory to the Whig camp. And yet, even after the 'Wealth of Nations' had appeared, the transition was slow in being effected;[1] and when in 1786 the Tory Pitt finally secured, and the Whigs Fox, Burke, and Sheridan in vain opposed, a commercial treaty with France, they were on both sides true to the old traditions of their parties. They were but advocating policies which had been adopted more than a century before, at the time of the Prohibition of 1678.

[1] As Burton justly says of this period (*Life of Hume*, i. 356): 'These innovating doctrines . . . were more in favour with the Tories than with the Whigs. Indeed, Archdeacon Tucker, one of the boldest speculators on the economy of trade, was in State politics one of the most uncompromising Tories of his age.' The remark of Fox is well known: 'Your Adam Smiths are nothing.' The main explanation of the subsequent change in the party programmes is, of course, to be found in the fact that in the seventeenth and eighteenth centuries the commercial classes which supported the Whig party believed their interest to lie in restriction, and in the nineteenth century in freedom, while a change in the opposite direction took place in the desires of the landed classes which supported the Tory party.

GOURNAY[1]

M. SCHELLE'S 'Life of Gournay' is a little disappointing. From the author of the biography of Du Pont de Nemours and the restorer of the text of Turgot great things were expected. And, indeed, in the 252 exceedingly small pages that are here given to Gournay himself there is a certain amount of new material for which we must be grateful. There seems to be little of Gournay's own writing now in existence, and few fresh particulars to be gleaned about his life; but what could be got together M. Schelle has now set before us, including a number of important letters and a *mémoire* addressed to the municipal authorities of Lyons concerning the *corporations des gens de métier*. Let us add that we are now enabled for the first time to realise the nature of Gournay's official activity as one of the *intendants du commerce*. These are not inconsiderable contributions to the history of economics. What we have to regret is that M. Schelle has not made a better use of his own material. He moves throughout in the uncritical atmosphere of Parisian economic orthodoxy; Gournay is with him '*un des fondateurs de l'économie politique*;' and, though in one or two places he suggests a doubt, the general conclusion of his book is a mere repetition of the traditional view of Gournay due to the statements of Turgot and Du Pont. M. Schelle knows of the existence of Professor Oncken's pamphlet on 'The Maxim: Laissez faire et laissez passer,' since he refers to it; but he cannot have studied it carefully. It is difficult to understand how any one who had once read Professor Oncken's

[1] [*Vincent de Gournay*, by G. Schelle. Paris, 1897. Reviewed in the *Political Science Quarterly*, 1898, xiii. 342.]

characterisation of Gournay as 'a liberal Mercantilist,' could have been guilty of repeating the wearisome old commonplaces about Mercantilism and Political Economy which make up so much of this volume.

One or two examples of M. Schelle's method will be sufficient. Gournay, as is well known, was the author of a translation of Child's 'Discourse of Trade' and of the 'Treatise on Usury' by Culpepper, which Child reprinted. Child's chief practical object was to bring about by legislation a reduction of the rate of interest. Gournay did not indicate by a single word his dissent from Child's belief that this was possible; in his preface he even remarked that England had made several attempts to reduce the rate of interest, 'following the principles of this author,' and had succeeded. The presumption, of course, is that Gournay agreed with Child; and this is strengthened by the circumstance that even Quesnay was in favour of the intervention of the public authority to reduce the rate of interest.[1] But M. Schelle cannot sacrifice Gournay's orthodoxy so easily. And so, to show that 'il avait sur la question de la liberté du commerce de l'argent une opinion entièrement conformée à ses vues générales sur l'incapacité de l'intervention de l'État dans les questions commerciales,'[2] he prints—what? A letter to the French ambassador at Rome, suggesting the possibility that the canonist prohibition of usury (i.e. of any demand for payment for the use of money) might be relaxed! This 'prouve que son auteur, loin de songer à faire intervenir l'autorité dans le commerce de l'argent, voulait au contraire l'affranchir de *toute* entrave.'[3] If M. Schelle looks for that kind of consistency in any of the pre-Physiocratic economists of France, he cannot have pushed his studies very far.

Take another example of M. Schelle's argumentation. He tells us honestly enough:

> Dans les écrits de Gournay, nous n'avons trouvé pourtant aucune indication au sujet de la liberté du commerce extérieur. On pour-

[1] P. 223. [2] P. 180. [3] P. 184.

rait même inférer de quelques passages de ces écrits que l'intendant n'avait pas su se débarrasser complètement du système mercantile, et qu'il n'était pas opposé à ce que la métropole se réservât le commerce de ses colonies.

Very well; then why not 'infer' it? Apparently only to save Gournay's reputation for consistency, M. Schelle thus continues:

Mais ces légères contradictions *peuvent* avoir échappé à sa plume ou avoir été motivées par des considérations du moment. En réalité on n'aperçoit pas le motif pour lequel celui qui demandait [freedom in various other directions] aurait voulu restreindre l'application des vérités qu'il soutenait.[1]

Turgot once remarked to Du Pont that 'everybody likes to be himself, even if he is wrong.' And really, on behalf of Gournay, we must remonstrate that, if there is reason to believe he did not hold the doctrine that the foreign trade of a country should be entirely free, he must not have it ascribed to him just because M. Schelle cannot otherwise quite understand his position.

But, then, Gournay had 'a system.' True, Malesherbes did not think so, and declared that the intendant did nothing but demand the application of ideas that were already commonly accepted in general conversation. This, says M. Schelle, was an illusion: the philosophic Turgot has '*éloquemment montré l'enchaînement.*'[2] Unfortunately, the *éloge* attributed to Turgot also assigns to Gournay such ripe physiocratic ideas as the *impôt unique*, which there is not a tittle of other evidence to suggest he accepted. Professor Oncken has already called our attention to the fact that the complete *éloge* did not appear till 1808; and M. Schelle's own discoveries as to Du Pont's editorial methods might suggest some further reasons for hesitation before accepting the *éloge* as evidence of Gournay's opinions.

But the point need not be laboured. Indispensable as the book will be to the student of the economic movements of the eighteenth century, it is a saddening example of the

[1] P. 221. [2] P. 198.

limitations of view and the unscholarly, even when industrious, performance of what may be called the Guillaumin circle. In France, says M. Chailley-Bert, in the introduction to the 'Nouveau Dictionnaire,' political economy (i.e. the political economy of the Dictionary) has exposed its adepts 'à l'impuissance et presque au ridicule.' Books like these go far to explain the fact. And it is the greater pity, since the best hope for the future of the Parisian economists lies in the direction of historical study.

ENGLAND AND AMERICA

1660–1760

THE COMMERCIAL LEGISLATION OF ENGLAND AND THE AMERICAN COLONIES, 1660–1760[1]

With the impressive rhetoric of which he was a master, Adam Smith, in the very year of the Declaration of Independence, thus passed judgment upon the system of control which for more than a century England had exercised over the economic activity of her colonies:

> To prohibit a great people from making all that they can of every part of their own produce, or from employing their stock and their industry in the way that they judge most advantageous to themselves, is a manifest violation of the most sacred rights of mankind.

Some such opinion has probably been expressed or implied by nearly every writer on the subject from that time to this. A period in which, to begin with, the old colonial system was apparently discredited by its failure, and in which, soon afterwards, all the dominant forces in political society began to tend towards emancipation, towards liberation from restraint, was not an age in which Adam Smith's

[1] [A lecture before the University of Oxford, February 4, 1899; printed in the *Quarterly Journal of Economics*, November 1899.]

summary appeal to 'the most sacred rights of mankind' was likely to be seriously called in question: nor shall I seek to controvert it to-day. But, starting from such a preconception, it has seemed to many a natural inference—though, as we shall see, Adam Smith took care not to draw it—that so seemingly manifest an iniquity must have been actually hurtful to those who were subjected to it; that what was mistaken in principle must have been mischievous in operation. We cannot be surprised that the first generation of American historians should think so; writing, as they did, before the passions provoked by the great struggle had had time to subside. Thus Bancroft did not hesitate to pronounce 'the effects of this system' 'baleful;' and he proceeded to justify this statement by an argument which was designed to show that it robbed the colonists in two ways: it compelled them to pay more than their 'fair value' for the commodities they imported, and to accept less than their 'fair value' for the commodities they sold. But a like opinion is not confined to American historians: it has come to be very generally accepted by English writers; and upon its side it has the authority of the most painstaking and the most widely read of the historians of the eighteenth century—the judicious Mr. Lecky himself. In two well-known passages in his second and fourth volumes, Mr. Lecky leaves no doubt as to his conviction. Though 'the country'—i.e. the American colonies—'was,' he says, 'growing rapidly richer,' yet 'its progress was seriously retarded,' and 'many of its natural capacities were paralysed by law.' 'It is,' he elsewhere remarks, 'undoubtedly true that the commercial policy of England had established a real opposition of interest between the mother country and her colonies.' If so, it would have demanded an unwholesome degree of patience for the Americans to have submitted with cheerfulness. Commerce must, in the words of Bancroft, have been 'converted into a source of rankling hostility:' in the more subdued language of Mr. Lecky, 'political alienation' could not have failed to be 'the inevitable consequence.' Mr. Lecky's philosophy of the American

Revolution is, therefore, this—though the passage is almost too familiar for quotation:

> If the policy which was the proximate cause of the American Revolution was chiefly due to the king and to the landed gentry, the ultimate cause may be mainly traced to the great influence which the commercial classes possessed in British legislation. The expulsion of the French from Canada made it possible for the Americans to dispense with English protection. The commercial restrictions alone made it their interest to do so.

I propose to set forth what seem to me adequate reasons for believing that this view of the case is altogether mistaken; that, whatever may have been the objects it had in view—and these objects, I shall not attempt to deny, were largely selfish—the policy of England was not, as a matter of fact, economically disadvantageous; that, on the contrary, it was beneficial to the American colonies. Adam Smith's principle of natural rights I shall leave untouched. I shall not even criticise the short and easy syllogism which involves the colonial policy in the same condemnation with mercantilism. Yet I cannot but anticipate that a more accurate knowledge of the facts of the case may put us into a better position to deal fairly even with these ultimate questions of political principle and economic theory.

The laws of England, affecting the trade and industry of the American colonies, fall, with one notable exception to be dealt with by-and-by, into three groups; and it is essential to bear in mind the differences between them. There were, in the first place, the *Navigation Laws* proper; in the second place, what we may conveniently christen the *Enumeration Laws*; and lastly, and, as we shall see, of far less significance, the *Laws concerning Manufacture*. We will look at them in this order.

I. The Act of 1660—directed, as we all know, primarily against the Dutch, who seemed likely to monopolise the carrying trade of the world—enacted that no commodities should be imported into or exported from any British plantation in Asia, Africa, or America, except in British

ships.[1] 'British' I use for the sake of brevity. The phraseology of the Act was more cumbrous: it was, 'Ships which truly . . . belong only to the people of England or Ireland, Dominion of Wales or town of Berwicke upon Tweede,' or 'are of the built of, and belonging to any of the said . . . Plantations or Territories . . . and whereof the Master and three fourths of the Mariners at least are English.' Students of the history of the period need hardly be told, though the earlier American historians and some English historians have occasionally forgotten, that the word 'English' included all subjects of the English crown, and therefore the colonists. If there were any doubt, it would be removed by an early Act of Charles II.[2] It would be correct, then, to say that by this Act a monopoly of the 'English' colonial trade was given to 'English' ships; but, to avoid ambiguity, it may be well to keep 'English' for the island and 'British' for the empire.

That this restriction was felt as a grievance at first by the Virginians, who had, for some years past, put large quantities of their tobacco on board Dutch ships, and that it created some annoyance here and there in other colonies,

[1] [In order to simplify the subject I did not go back to the Ordinance of 1651, passed by the Long Parliament under the leadership of Sir Harry Vane, himself at one time governor of Massachusetts Bay. The Act of 1660 did but carry a little further the policy of the Ordinance. The details of the legislation may be conveniently studied in *American History Leaflets*, No. 19, ed. Channing.]

[2] 1662. 14 Car. II. c. 11, § 5 (*Statutes of the Realm*, v. 395). 'Whereas it is required by the said Act'—the Navigation Act of 1660—'that in sundry cases the Master and three fourths of the Mariners are to be English, it is to be understood that any of His Majesty's Subjects of England, Ireland and His Plantations are to be accounted English and no others.' The same clause also enacted that 'no Forreign built ship (that is to say) not built in any of His Majesty's Dominions of Asia, Africa or America or other than such as shall be bought before Oct. 1, 1662, shall enjoy the privilege of a ship belonging to England or Ireland, although owned and manned by English.' Professor Channing was, I believe, the first among recent writers to call attention to the clear meaning of this Act; in his paper on the 'Navigation Laws,' in *Proceedings Am. Antiquarian Soc.*, 1889.

cannot be doubted; just as the other clause of the Act which prevented the importation of any commodities into England from other European countries, except in British ships or in ships of the producing country, sent up the cost of freight and caused some temporary irritation among English traders. Adam Smith justly observes that these clauses 'were not favourable to foreign commerce, or to the growth of that opulence which can arise from it:' he omitted to explain that this need only be true for a comparatively short period after the passage of the Act. We might be content to share his position that, even if the law were economically disadvantageous both to England and the colonies, it was nevertheless wise, on the ground that 'defence is of much more importance than opulence.' But, for the colonies at any rate, we are not shut up to this non-economic consideration. It is certain that, under the operation of the Act, shipbuilding soon became the chief industry of New England. In less than twenty years New England ships began to be sold in Old England. During the next few decades the business sprang up in every town along the New England coast and in many a riverside village for miles inland. About 1720 Massachusetts alone launched 150 ships a year; and in 1724 the master-builders of the Thames complained to Parliament that they were seriously injured by colonial competition, and prayed for protection. In view of the language which Franklin got into the habit of using in his later years about 'the interest of all America' being 'lightly estimated' in England 'when the interests of a few of the inhabitants of Great Britain happened to have the smallest competition with it,' it may be worth noticing that the request of the Thames shipbuilders was not granted. In New England timber was cheap and easily accessible; and it may be plausibly conjectured that, even without any such protection for colonial-built shipping as the Act afforded, these advantages would have enabled the colonists after a time to compete with the Dutch, who had to fetch their ship timber from the Baltic. But when we recall Child's lamentations over the inferiority of English ships in point of

construction and ease of navigation, and the much lower freight rates which the Dutch were able to offer for this and other reasons, it certainly seems very probable that, but for some such forcible exclusion of foreign ships, the development of New England shipbuilding would have been retarded by half a century or more. Accordingly, the younger generation of American historians are beginning to point out that a much larger place must be assigned to this industry in the economic history of the American people than has hitherto been customary; and, further, to assert, in the words of a Harvard colleague of mine, that 'the restriction of trade to English and colonial vessels' actually 'stimulated shipbuilding and the shipping interest in the colonies.'[1] The complaints of the Virginian planters soon died away. English-built and colonial-built shipping competed for the privilege of carrying their tobacco, and they were too obviously prosperous to be effective grumblers.

To this immediately economic consideration we may add two others of a mixed political and economic character. The one is that the rapid expansion of American commerce, carried on, as we have seen, largely in American-built ships, took place—and under the circumstances of the time could only take place—beneath the protection of the English naval power. To the direct support of this power the colonies contributed only to an inappreciable extent, by grudgingly furnishing a few masts for the navy.[2] This fact can be disregarded only by one who supposes that the colonies could have stood alone, and does not remember that colonial hopes and fears contributed in no small degree to involve England in each of the great wars of the period.

The other consideration is that colonial enterprise largely benefited by the opportunities opened to it by the naval

[1] A. B. Hart, *Formation of the Union*, p. 46.

[2] E. L. Lord, *Industrial Experiments in the British Colonies of North America*, pp. 105–123. It should be added that sailors in America were expressly exempted in 1707 from impressment for the royal navy by 6 Anne, c. 64, § 9 (*Statutes of the Realm*, viii. 806). This noteworthy privilege was not withdrawn till 15 George III.

successes of the mother country. A recent American historian, unsympathetic towards the colonial system, but acquainted with the details of American business, observes, in passing, that, 'whenever a political change in the foreign relations of England opened a port, or admitted commerce with any country, it quickened the commercial movement along the whole New England line.'[1]

II. Now we pass to the *enumerating* enactments. The statute of 1660 forbade the exportation from the colonies to any country save England and the other plantations of certain enumerated articles—whence the term; namely, ginger, sugar, tobacco, cotton wool, indigo, fustic, and other dyeing woods. The list sounds a formidable one; but the only commodity among them put upon the market by the American *continental* colonies was tobacco, the staple product of Virginia, and later of Maryland also. Rice, which began to be raised in the Carolinas towards the end of the century, was added to the list in 1706, together with the group of articles known as 'naval stores;' and copper and beaver skins were inserted in 1722.

None of the staple articles of the trade of New England were ever enumerated during the century 1660 to 1760—neither fish, nor vessels, nor timber,[2] nor rum; and during the whole of the period before us they could be carried wherever a market might be found.

The historical order of enumeration is also the order of importance; but it will be convenient to take it backwards, and so get the insignificant articles out of our way. By 1722 the fur trade of the English colonies, which had for some time been practically confined to the province of New York, had almost come to an end. For quite sufficient geographical reasons, it had passed into the hands of the French of Canada. The 'Enumeration' was grumbled at, of course; but it was accompanied by a reduction to one-

[1] W. B. Weeden, *Economic and Social History of New England*, ii. 643; referring more particularly to the second quarter of the eighteenth century.

[2] Except masts and bowsprits after 1706.

third of the duties levied on importation into England: and neither restriction nor favour had any substantial effect on a branch of trade bound speedily to disappear. The enumeration of copper was intended for the benefit of the navy. It was suggested by certain wildly exaggerated reports of mineral discoveries; but hardly any copper was mined in America until the present century.

The case of rice calls for more notice. In consequence of its enumeration in 1706, Carolina lost for a time a great part of the Portuguese market, which had been recently carrying off one-fifth of the total output. In 1730, however, the English Parliament so far relaxed the restriction as to allow of rice being shipped directly to any country south of Cape Finisterre. Henceforth, in an average year, Carolina exported some 50,000 barrels. Of these 10,000 went direct to Portugal. Spain and the other Mediterranean countries seem to have been supplied by an inferior Turkish article; while France excluded British rice altogether except on rare occasions. The other 40,000 barrels were taken to England, but only some 3,000 of them were there consumed. The rest were re-exported, with a drawback of the duty paid, to Holland and North Germany. The questions raised by this transhipment will be considered in dealing with tobacco. It is evident that during the years 1706 to 1730 the demand for rice was somewhat interfered with; but we may so far anticipate our subsequent argument as to venture the assertion that after that date even complete freedom could hardly have secured a larger European demand than was actually enjoyed.

Naval stores we will postpone till we come to the matter of bounties; and so now we reach tobacco, which was the foundation of the social system of the southern provinces, and formed one-half of all the colonial exports. From 1660 onwards, all the tobacco of Virginia and Maryland sent to Europe had first to be carried to England. But this did not mean that it stayed there. On re-exportation, sometimes the whole, sometimes very nearly the whole, of the import duty was repaid as a 'drawback;' and the proportion of the

crop re-exported to other European countries was between two-thirds and four-fifths. Thus the enactment, though obviously designed to put profit into the hands of English merchants acting as middlemen, did not by any means shut the American planter out of the European market; at most, it involved some additional freight charges. Even if so—though the incidence of freight is as tangled a subject as the incidence of taxation—I imagine the burden would have been borne to some extent by the continental consumer. But, when we see where the foreign market was to be found, we may well doubt whether any cheaper method of doing business with the European continent would have been likely to grow up, even under conditions of absolute liberty. The Mediterranean was supplied with Turkish tobacco; Spain and Portugal only admitted the tobaccos of their own colonies; and accordingly American tobacco could expect to find a market only in northern and central Europe. But, as is remarked in an almost forgotten early work of Lord Brougham, the mother country was constituted by her very situation the natural *entrepôt* between America and the whole of this area. Brougham's 'Inquiry into the Colonial Policy of the European Powers' appeared in 1803; too early for its criticisms of Adam Smith to secure the attention they deserved. Do not forget that even if American ships could have gone direct to Hamburg, and had been permitted to ship German commodities—which they were not—they would have found it hard to secure a return cargo. Woollen cloth, the chief article imported from Europe, they could not have got more cheaply than in England; for English cloth was at this very time flooding the German market just because it was cheaper. From the French ports, it is true, they might have obtained cheaper silks. But, on the whole, we can have little doubt that the differentiation of employments, by which the planters in Virginia, Maryland, and the Carolinas undertook the production of tobacco and rice, and English merchants found a market for them at home and abroad, was advantageous to both parties. The Enumeration probably only hastened the introduction, and somewhat

stiffened the outlines, of a method of doing business which would have grown up in any case. As Brougham says, 'The restrictive policy . . . only secured, by a superfluous and harmless anxiety, that arrangement which would of itself have taken place, if things had been left to their natural course.'

Grant, however, the bare possibility that the interests of the tobacco colonies may have been injured to some trifling extent by the Enumeration, we have now to set against it two weighty considerations: first, that from the year 1660 onwards the growth of tobacco in England was absolutely prohibited. The main motive of this measure was probably fiscal: a duty at the ports was easier to collect than an excise. But the Act also put forward as a reason the desirability of leaving the business to the colonies. That this was a secondary motive is no reason for doubting that it was a genuine contributory motive. Writers like Bancroft used to ridicule the notion that the suppression of tobacco-raising in England could be regarded as in any degree an offset to the Enumeration. But, had they lived to know of the modern German crop of tobacco, or had they been acquainted with what was actually going on in the seventeenth century in England, they would hardly have spoken so contemptuously. In fact, the cultivation of tobacco was spreading very rapidly during the Protectorate, especially in the west-midland counties; and it was put a stop to only by vigorous measures on the part of the executive. And, moreover, as if it were not enough that the Englishman should be prevented from smoking home-grown tobacco, grave obstacles were put in the way of his smoking Spanish tobacco. Duties were levied upon it three times as high as upon American; so that the latter almost monopolised the English market. The conclusion is not susceptible of exact proof; but surely there is a high degree of probability in the assertion that a proposal to establish freedom all round would not have been welcome to the Virginian planter.

The vitality of an historical grievance when once it is sent forth into the world is illustrated by the circumstance

that even the careful investigator from whom I have drawn many of the foregoing facts is still inclined to think that Enumeration contributed, though 'but slightly,' to the sharp fall in the price of tobacco during the first half of the period before us;[1] the main cause being, evidently, as he points out, over-production. With this let us compare the diametrically opposite opinion expressed in the 'Wealth of Nations.'

> Had France and all other European countries been at all times allowed a free trade to Maryland and Virginia, the tobacco of those colonies might by this time have come cheaper than it actually does, not only to all those other countries, but likewise to England. The produce of tobacco, in consequence of a market so much more extensive than it has hitherto enjoyed [we have seen that this is exceedingly dubious,] might, and probably would by this time, have been so much increased as to reduce the profits of a tobacco plantation to their natural level with those of a corn plantation, which it is supposed they are still somewhat above. The price of tobacco might, and probably would by this time, have fallen somewhat lower than it is at present.

The planters had the sense soon to leave off grumbling at the Enumeration. If they had continued to be dissatisfied, it would have been but cold comfort they would have got from Adam Smith.

With the Enumeration of certain exported commodities, we may conveniently consider the limitation put upon the business of importation into the colonies by a statute of 1663, which enacted that all commodities of the growth or manufacture of Europe should be shipped in England and in British bottoms. The avowed intention was to make England the 'staple' for the plantations, and so to secure to English merchants the profits of intermediaries. But, if the preceding argument is sound as to England's position as entrepôt for colonial products, it is equally sound with regard to the supply of European wares. Ships unloading in

[1] G. L. Beer, *The Commercial Policy of England towards the American Colonies*, p. 51.

England and getting a return cargo mainly of English commodities would, economically enough, fill up what space remained in their holds with such European commodities as were in demand. Wellnigh the whole of the English import duty on these commodities was usually returned as a drawback; and, as the duties imposed by the colonial governments themselves were mostly light,[1] 'many different sorts of foreign goods'—it is Adam Smith who assures us—'might have been bought cheaper in the plantations than in the mother country.' So far was the English Government from pursuing, in this matter, either its fiscal interest or the immediate advantage of Englishmen, that the same great writer actually criticises its policy on the ground that it was likely to be injurious to both. Thus he remarks:

> The mother country might frequently suffer, both in her revenue, by giving back a great part of the duties which had been paid upon the importation of such goods, and in her manufactures, by being undersold in the colony market in consequence of the easy terms upon which foreign manufactures could be carried thither by means of these drawbacks.

And he gives a specific example:

> The progress of the linen manufacture of Great Britain, it is commonly said, has been a good deal retarded by the drawbacks upon the re-exportation of German linen to the American colonies.

III. The third class of restrictions, those upon *manufactures*, have lent themselves even more easily to rhetorical denunciation, though their effect, I believe, was altogether insignificant. Let us see, first, exactly what they were, and notice the dates in each instance. There were just three cases. In 1699 it was enacted that no wool, yarn, or woollen cloth produced in the English plantations should be 'loaded or laid on board in any ship or vessel; or loaden upon any horse, cart, or other carriage, to the intent and purpose to be exported, transported, carried, or conveyed out of the said English plantations to any other of the said plantations, or to

[1] The subject of Colonial Tariffs is worked out by W. Hill in the *Quarterly Journal of Economics*, vii. 78 seq.

any other place whatsoever.'[1] The object was to prevent all manufacture for a distant market, while not interfering with manufacture within the family, or for purely local needs. In 1732 it was enacted that no hats should be exported to England, Europe, or other colonies; manufacture for sale within each particular colony was again left free, except that it was now placed under the same rules of apprenticeship as English hatters were subject to under the statute of Elizabeth. Finally, in 1750—almost at the end of the period—it was enacted that no steel furnaces or slit mills should be erected in the colony, the country forges which made bolts and nails and common farm implements remaining untouched.

We are not now engaged, I would remind you, in passing judgment on the motives of the framers of these Acts, or of the English manufacturers who petitioned for them. Our sole task is to determine what significance, if any, they possess in the economic development of America. Two questions at once occur: to what extent had the industries in question been actually set on foot before the Acts? and how far were the Acts obeyed? Unfortunately, our evidence is conflicting. The great woollen interest of England, which supplied more than half the exports to the colonies, was easily alarmed. The idea soon gained currency that the way to prevent the colonists from interfering with the vent of English cloth was to turn their attention towards the production of naval stores. Thereupon, all those persons in England and America who anticipated some advantage to themselves if the government would only subsidise the production of naval stores, were tempted to join in the cry of danger. Governors' reports are hardly more trustworthy: they often know but little of their provinces outside the chief towns; and either they wanted to insure the vote of their salaries by keeping on good terms with their assemblies, and

[1] 10 & 11 Wm. III. c. 10, § xix. Mr. Weeden in two places (*op. cit.* pp. 388, 722), not observing that 'to any other place' is conditioned by 'out of the plantations,' gives a misleading impression of the purpose of the Act. He was probably misled by the loosely worded account of the Act in Adam Smith, Bk. IV. ch. vii.

were therefore inclined to pooh-pooh English alarms, or they were at feud with their assemblies and saw everything colonial through clouded spectacles. So, as 'the historical method' is risky here by itself, let us have recourse to a little 'deduction' from the principle of self-interest. There is a celebrated pamphlet, known as 'The Canada Pamphlet,' which Benjamin Franklin wrote in 1760, when he wanted to persuade the English public that it would be better to retain Canada than Guadeloupe among the spoils of war. In this he roundly asserted that hitherto the English manufacturers' monopoly of the colonial market had not been seriously threatened, since

> No man who can have a piece of land of his own, sufficient by his labour to subsist his family in plenty, is poor enough to be a manufacturer and work for a master. Hence, while there is land enough in America for our people, there can never be manufactures to any amount or value.

And again :

> Pennsylvania is the colony the most suspected of carrying on manufactures, on account of the number of German artisans who are known to have transplanted themselves into that country, though even these, in truth, when they come there, generally apply themselves to agriculture as the surest support and most advantageous employment.

And once more :

> The colonies are so little suited for the establishing of manufactures that they are continually losing the few branches they accidentally gain. The working braziers, cutlers, and pewterers, as well as hatters, who have happened to go over from time to time and settle in the colonies, gradually drop the working part of their business, and import their respective goods from England, whence they can have them cheaper and better than they can make them. They continue their shops, indeed, in the same way of dealing ; but become sellers of braziery, cutlery, pewter, hats, etc., brought from England, instead of being makers of those goods.

It will have been noticed that Franklin, like other economic writers, passes unconsciously to and fro between

deductive argument and historical statement. He not only argues that the inhabitants of the colonies would follow their self-interest, and therefore pursue agriculture rather than manufactures: he asserts that as a matter of fact that is what they did. As a man of the people and as Agent for Pennsylvania, Franklin must have been acquainted with the facts. A few years later, indeed, he was writing pamphlets which gave at any rate a different impression; but we can hardly think so meanly of him as to suppose this argument of 1760 an altogether baseless invention.

Adam Smith had probably read or heard about this pamphlet. At any rate, it is exactly in the same strain that he expresses himself. In one place he asserts that

> In our North American colonies, where uncultivated land is still to be had upon easy terms, no manufactures for distant sale have ever yet been established in any of their towns. When an artificer has acquired a little more stock than is necessary for carrying on his own business in supplying the neighbouring country, he does not, in North America, attempt to establish with it a manufacture for more distant sale, but employs it in the purchase and improvement of uncultivated land. From artificer he becomes planter; and neither the large wages nor the easy subsistence which that country affords to artificers can bribe him rather to work for other people than for himself. He feels that an artificer is the servant of his customers, from whom he derives his subsistence; but that a planter who cultivates his own land and derives his necessary subsistence from the labour of his own family is really a master, and independent of all the world.

The other passage comes to the same conclusion for a different reason. Immediately after the remarks about the 'sacred rights of mankind' already quoted, he continues thus: 'Unjust, however, as such prohibitions may be, they have not hitherto been very hurtful to the Colonies.' Readers unacquainted with Adam Smith's modes of thought may not suspect that 'not very hurtful' is his Scotch cautious way of saying 'not hurtful at all.' For he goes on:

> Land is still so cheap, and, consequently, labour so dear among them, that they can import from the mother country almost all the

more refined or more advanced manufactures cheaper than they could make them for themselves. Though they had not, therefore, been prohibited from establishing such manufactures, yet, in their present state of improvement, a regard to their own interest would probably have prevented them from doing so. . . . Those prohibitions, perhaps, without cramping their industry or restraining it from any employment to which it would have gone of its own accord, are only impertinent badges of slavery imposed upon them, without any sufficient reason, by the groundless jealousy of the merchants and manufacturers of the mother country.

This is a passage which heightens one's respect for Adam Smith. He is so bent upon crying, 'Edward! chains and slavery!' And yet he has the scientific conscience.

When now we come to look into the evidence concerning the particular industries, it is found to harmonise pretty well with the conclusions of Franklin and Smith. In the southern colonies no manufactures were ever attempted, except the production of pig iron: the commonest and cheapest articles of daily use were all imported from the Old Country. It was Pennsylvania, New York, and New England which aroused the jealous fears of English merchants and artisans. The climate of New England is not at all suitable for sheep-breeding, and the transportation of wool from the middle colonies was expensive. Nevertheless, both in New England and in the middle colonies, some attempts were made here and there by small capitalists to play the part of English clothiers. This was in the closing years of the seventeenth century and the opening years of the eighteenth. They soon abandoned the business; not on account of the prohibition, but because the conditions became more favourable for other investments. The colonies evidently had had some difficulty at first in obtaining 'returns,' to use the language of the period, for the goods they wished to import; and for a time they had, perhaps, to go rather short of the finer fabrics. But in the years of peace which followed the great settlement at Utrecht in 1715, what with the rapid growth of the ship-building business and of the fisheries, the opening

up of a new trade with the West Indies, and the extension of the two allied occupations of rum-distilling and slave-trading, this difficulty quickly disappeared; and the capitalists of the towns found remunerative opportunities for investment. As to the country weaver, who might conceivably have grown into something like the West of England clothier, Adam Smith's remark that he would be far more likely to put his savings into land is true enough, and very pertinent. Accordingly, the state of affairs in the period 1715-60 was somewhat like this: the farmers' wives and daughters themselves spun the wool which they got from their own few sheep; many farmhouses had their own looms where, if the farmer or his servants were without the necessary skill or time, an itinerant weaver worked up the yarn into cloth; and then the farmer put a bundle of this cloth into his buggy and drove over to a neighbouring fulling mill. If he did not happen to own a loom, he took his yarn to a weaver's cottage in the next village. Meanwhile the townspeople were all clad in English manufactures; the merchants and professional men liked them better, and, as all the towns were on the coast, the working classes got English stuffs more cheaply than they could have bought up-country woollens. Possibly some of Emerson's 'embattled farmers,'

> Who fired the shot heard round the world,

were clad in American homespun; but it is more certain that Adams and Otis and Franklin wore English broadcloth. And so, 'in general, the Act of Parliament was well obeyed, since it carried no hardship with it in the eighteenth century.'[1] It is an American economic historian from whom I quote.

The law of 1732 as to hats was the result of the alarm of the London Company of Hatters, who saw in their mind's eye thousands of American hats being shipped to England. There is a paper drawn up by Franklin in London at the end of 1767, in which he endeavours, as he puts it, to

[1] Beer, *op. cit.* p. 81.

'palliate' certain recent proceedings in Boston which, he confesses, gave him 'great concern,' by a sympathetic account of what he alleges to be the American frame of mind. He represents the Americans as arguing that 'there cannot be a stronger natural right than that of a man's making the best profit he can of the natural produce of his lands;' that 'beaver furs are the natural produce of that country;' and 'yet the hatters of England have prevailed to obtain an Act in their own favour, restraining the manufacture of hats in America.' This argument as to the natural right of a people to work up their own produce has been echoed by Bancroft and Mr. Lecky, and it is very telling; but they have taken Franklin too much *au sérieux*. He was careful, we may observe, not to commit himself. The argument is given in oblique oration; and Franklin hedges at the end by the ironical comment, 'These are the wild ravings of the half-distracted Americans.' I gravely doubt whether, as a matter of fact, the 'half-distracted' Americans were 'raving' to this effect. The argument is quite inconsistent with what we have already learnt as to the decay of the fur trade in the English colonies. And the truer impression is certainly that which Franklin himself gives in his pamphlet of 1760, before cited, that the hat-making industry had been brought to an end not by the pressure of law, but by economic causes.

> It is true [Franklin then said] there have been, ever since the first settlement, a few hatters in New England, drawn thither probably at first by the facility of getting beaver while the woods were but little cleared and there was plenty of those animals. The case is greatly altered now. The beaver skins are not now to be had in New England, but from very remote places and at great prices. The trade is accordingly declining there; so that, far from being able to make hats in any quantity for exportation, they cannot supply their home demand; and it is well known that some thousand dozens are sent thither yearly from London, Bristol, and Liverpool, and sold cheaper than the inhabitants can make them.

Finally, we come to the iron industry. The statute of 1750 enacted that no mill or other engine for rolling or

slitting iron, no plating forge to work with a tilt hammer, nor any furnace for making steel, should be erected in the colonies. This, I confess at once, is the one weak point in my argument. There were, perhaps, at this date, some half-dozen slitting mills in New England, and possibly two or three tilt hammers and two or three steel furnaces.[1] It cannot be denied that they would probably have enjoyed a certain moderate prosperity, and that they could readily get all the iron they needed from the southern colonies. Moreover, the Act did cause them to be shut up. It can only be pleaded that, after all, it was not a large matter; and one might perhaps make something out of the fact that the owner of one of the largest of the slitting mills, so far from never getting over his grudge, was conspicuous a few years later as one of the leaders of the Loyalists.[2] Yet there is another side to the account, which, if it does not balance it, ought not to be quite forgotten. The same Act favoured American bar iron and pig iron by removing the duties to which they had hitherto been subject on importation to England, while leaving intact those on Swedish and other foreign iron. This was done for immediate political motives, in the hope of rendering England independent of foreign sources of supply; and also for mercantilist motives, to check the supposed drain of specie. But to the credit of the government it may be remarked that the concession was granted in the teeth of much opposition from English iron-masters and owners of woodlands, and even from English farmers. The consequence of the removal of the duties was that in four years the quantity of colonial pig iron imported into England increased by one-half; and that it began, for the first time, to be profitable to carry over bar iron. But, unfortunately, while it was New England which chiefly suffered from the new restriction, it was Virginia and Maryland which profited by the new favour.

With the exception still to be dealt with, we have now

[1] Weeden, ii. 682.

[2] *Ibid.* ii. 499.

come to the end of all the possible grievances; and we have seen how slender are the grounds for supposing that the measures in question did, to any notable extent, inflict real injury on the American colonies. But, as we have already seen in the case of iron, the action of the English government was not always of a restrictive character: it sometimes took the form of encouragement; and these two elements in English policy cannot be separated. Because it restricted, it felt bound to encourage; because it encouraged, it felt the more justified in restricting. This is strikingly illustrated by the efforts to promote the production of 'naval stores'—of tar and pitch, of masts and hemp. These were enumerated in 1706; and, if the restriction had stood by itself, the colonies might conceivably, though this is very doubtful, have lost some small foreign sale for their masts. The other enumerated stores were not produced at that time in America of sufficiently good quality to attract a foreign demand. But in 1705 the English government definitely adopted the policy of offering a considerable bounty on the importation into England of all these stores from the colonies; and, with but slight interruption, this policy was followed down to the end of the colonial period. One estimate makes the amount thus paid more than a million and a half pounds. Of course, the purpose of the government was not primarily the welfare of the colonies. It desired: (1) to make the British empire independent of foreign sources of supply for what were really munitions of war; (2) to circumvent the Stockholm Tar Company, which had obtained a monopoly of Baltic pitch and tar, had put up prices, and had excluded English ships from the trade; (3) to prevent a supposed drain of specie from England; and (4) to enable the colonies to provide themselves with 'returns,' so that they should not be tempted to manufacture for themselves. But, after all, it did honestly and with reason believe that the industries in question were suited to America. It did take a world of trouble about investigating the whole subject, and about teaching the colonials better methods of preparing their tar —how much trouble the recent monograph of Miss Lord of

Bryn Mawr College, based upon unprinted English state papers,[1] has made sufficiently clear to us—and, finally, it did meet with a fair measure of success. The bounties on hemp and on masts had little effect, but the production of pitch and tar throve exceedingly. In 1704 nearly 43,000 barrels of pitch and tar were imported into England from Sweden, something like 18,000 from the rest of Europe, and only 872 from the plantations. In 1718 the Swedish product was dispensed with, the supply from the rest of Europe had fallen to 10,000, that from the plantations had risen to 82,000 barrels. After that the increase was slower, but it did not cease. In 1770 the figures were, for pitch and tar, 103,000, together with 41,000 barrels of turpentine. The colonies which profited the most were the Carolinas, with their great pine forests. The industry was thoroughly suited to the physical conditions of the country; but it could not have maintained itself without some such assistance against the competition of Sweden, as was at once apparent when the bounties were temporarily withdrawn. Adam Smith remarks that the joint effect of the enumeration and of the bounties was to 'encourage the clearing of land' in America, which he regarded as the great prerequisite to improvement. How far this may be true I should not like to say; but I may perhaps observe that, besides its effect on the Carolinas, the bounty policy must indirectly have benefited New England. Cheap tar must have contributed to the prosperity of ship-building and the commerce dependent upon it. I hasten to add, lest my orthodoxy should be suspected, that no general economic argument on behalf of bounties can be drawn from this experiment, since it was America that benefited and England that paid the price.

I have postponed to the end the one great exception, the one Act which was altogether and unmistakably ill-advised, the one Act which, had it been enforced, would have hampered American trade, or rather would have thrown it into complete

[1] E. L. Lord, *Industrial Experiments in the British Colonies of North America*, Johns Hopkins Studies, extra volume xvii. 1898.

confusion. This was the 'Molasses Act' of 1733. By this Act duties were imposed on the importation of sugar, molasses, and rum from foreign plantations—i.e. from the foreign, and especially the French, West Indies—into any of the British colonies; duties high enough to be, and intended to be, prohibitory. But the Act was easily evaded with the connivance of the Customs officers, and no serious attempt was made to enforce it throughout our period.[1] When a little later it did become a practical grievance, it was as part of a quite new policy, which aimed, primarily, not at controlling trade, but at securing revenue.

The statement that the enforcement of the Molasses Act would have been disastrous calls for some explanation. New England, as we have seen, imported very largely fine manufactured goods from England. For these it had little of its own to send in exchange, but it could get molasses very cheaply from the French West Indies—more cheaply than from the English, because the French islands could produce sugar at a lower cost; and, as they were prohibited from importing rum into France, they had their molasses left on their hands. As a pamphleteer naïvely puts it, 'Molasses was of little or no value to the French planter, because rum was detrimental to France, as interfering with the consumption of their brandy.'[2] The molasses were converted into rum in the 'still-houses,' which sprang up from 1720 onwards in great numbers in New England.[3] The most thriving centre was Newport in Rhode Island, which had 22 distilleries. The rum was consumed in large quantities by the people of the New England States, especially by those engaged in the fisheries, to mitigate the hardships of their life; it was freely employed in barter with the Indians; but the larger part of the demand for it arose in connection with the slave trade. For thirty years Rhode Island sent some 18 vessels annually to the slave coast, carrying 1,800 hogsheads of rum; and Massachusetts was not far behind. The 'rum-men,'[4] as the

[1] Beer, pp. 131, 137, 138.
[2] Anderson, iii. 178.
[3] Weeden, i. 459.
[4] *Ibid.* i. 462.

New England slavers were called, found that 'a prime man slave' could be bought for about 110 gallons. An employer at home, in one case at least, instructed them: 'Water your rum as much as possible, and sell as much by the short measure as you can.' [1] The West Indies and, increasingly as the century went on, Virginia and Maryland, readily bought the black cargoes, and paid either in specie or in bills drawn upon tobacco exported to England. With these New England could pay its debts to the English manufacturer, and so 'the circle of commerce' was complete. With justice did the Americans complain that to enforce the Molasses Act would cut the ground from beneath their feet. As it was not enforced, any further observations are perhaps superfluous. Yet observe that the one Act, which, if enforced, would have had an effect on the course of affairs, was not passed to satisfy the clamours of any protected English interest, and cannot even be construed as a corollary of the mercantile theory of the balance of trade. It was passed for the sole benefit of other American colonies, though these were insular and not continental. By the strange irony of history, it was passed, we learn at last, mainly 'at the instance of a Boston merchant who was interested in sugar-growing in the British West Indies.' [2]

Our survey of English commercial legislation and of its probable effect, or rather absence of effect, upon the American colonies, is now complete. But a moment's reflection will show that the larger question of the effect upon the economic development of the colonies of their connection with the mother country cannot be answered from a consideration of the legislation alone. There were other large forces at work, outside and independent of all legislation. I can only touch on one of them. In his celebrated speech on American taxation, delivered in 1774, Edmund Burke, after

[1] Weeden, i. 465.

[2] E. Channing, *Student's History of the United States*, p. 155. It is to be hoped that Professor Channing will soon make public the information upon which he bases this interesting statement.

noticing that the Americans had tolerated the system of commercial restraint, proceeds to give this explanation:

> They were indemnified for it by a pecuniary compensation. Their monopolist happened to be one of the richest men in the world. By his immense capital (primarily employed not for their benefit, but his own) they were enabled to proceed with their fisheries, their agriculture, their ship-building (and their trade, too, within the limits), in such a manner as got far the start of the slow, languid operations of unassisted nature. This capital was a hot-bed to them. Nothing in the history of mankind is like their progress.

Evidence of English capital in American business meets us, indeed, at every turn. Thus an estimate of the year 1731 places the value of 'the tobacco ships alone' at 240,000*l.*, 'the greater part thereof, by far, being English-built, continually and constantly refitted and repaired in England.' On this point Adam Smith agrees with Burke. In that Book III. of his treatise which is so little read, he remarks that 'the progress of our North American and West Indian colonies would have been much less rapid had no capital but what belonged to themselves been employed in exporting their surplus produce.' And, when we turn to his set argument against the colonial system, we find that his main position is not that it was bad for the colonies, but that it was bad for England, in that it sent into the direction of the colonial trade an undue proportion of her capital. This may or may not be true; but that it did attract a great deal of English capital can hardly be doubted.[1] And, although the case is somewhat different to-day, as American railways and Argentina sufficiently demonstrate, undoubtedly in the eighteenth century capital to a very large extent followed the flag.

The English commercial legislation, I conclude, did the colonies no harm prior to 1760; and the English connection

[1] For some account of the way in which English capital was 'brought over to reinforce that of the Boston merchants,' in 1722, see Weeden, ii. 553.

did them much good. Under these circumstances, it is no wonder the Americans were neither indignant nor restive. I know of no evidence, during the century under review, for Bancroft's 'rankling hostility' or for Mr. Lecky's 'political alienation' as 'the inevitable consequence.' Individuals here and there felt themselves hampered in their operations, and were naturally annoyed; but there is absolutely no evidence of any widespread irritation. When one reads Mr. Lecky, one thinks of a movement of popular thought comparable to the opposition to Laud's ecclesiastical policy or to the agitation which led to the great Reform Bill. But, when one comes to look into the American sources, one has to search very minutely indeed to find any reference at all to the restrictions. The lawlessness produced by the half-smuggling molasses business did, in a sense, contribute to the Revolution, but it was a very minor element among many others: to be put by the side of the irritation of the New Hampshire backwoodsmen at the attempts to enforce the claims of the Crown to masts for the navy; to be put much below in importance the alarm which New England Puritanism felt before the anticipated inroads of the English Church. So far as I can see, the trade grievance was first formulated by Franklin. But the pamphlet in which he did so, that of 1767, already quoted, was hardly expected to be taken seriously; and even there the economic grievance was put on a level with grievances of another kind.[1] It was not till some years after the conflict had begun, when imagination was already playing tricks with memory, that the commercial

[1] Even after all the friction of the years 1760–67, the London agent for Massachusetts, in a memorial to the English government concerning the commercial grievances, regards them as inferior in importance to the restraint which had been recently imposed upon the fisheries. 'But the grand matter of Complaint is the Restraint laid on their Fishery, no American being suffered to take Cod in the Straits of Belisle, or on Labrador shore, and thereby rendering our new watery acquisitions entirely useless. . . . Your Memorialist takes the liberty to lay before your Lordship a few sentiments relating to the Fishery,' &c. Printed in Hart, *American History told by Contemporaries*, ii. 415.

restrictions were put in the foreground and represented as positively oppressive.[1]

The final assertion of Mr. Lecky that 'the commercial restrictions made it to the interest of the Americans to dispense with English protection,' you will have already gathered, is quite unsupported by evidence. A careful historian, Professor Coit Tyler, of Cornell, has recently said in print what has long been known, that 'probably a vast majority of those who stood for the commercial interests and for the capital of the country' were opposed to the Revolution.[2] After the war was over, the economic condition of the country remained almost stagnant, if it did not retrograde: no more trade sprang up than before between the several states; no more manufactures were set on foot. Economically, the colonial period ends, not with 1776 or 1789, but with the embargo of 1808, which brought entirely new forces into operation.

Holding as I do a professorship in an American university, it may perhaps have seemed somewhat ungracious on my part to destroy what is often regarded as part of the American case for the Revolution; but I am in excellent American company. The last ten years have seen the establishment of the first really critical school of American historians; and the outspokenness with which they have assailed some widespread historical superstitions does honour to their impartiality. In this particular matter the first distinct note of dissatisfaction with the current opinion was, I believe, struck in 1888 by that very competent Massachusetts antiquary, Judge Mellen Chamberlain. He has been followed by many of those younger scholars who are now being put in charge of departments of American history at the larger universities. It is very significant that in his

[1] Mr. Goldwin Smith has already remarked (*The United States*, p. 80) that the commercial and industrial grievances 'are not put forward as a ground of revolt in the Declaration of Independence;' but he has not drawn the obvious inference.

[2] *Literary History of the American Revolution*, i. 58.

'Student's History of the United States,' which seems likely to become a widely used text-book in the best high schools of the country, Professor Channing does not hesitate to lay down that 'it is impossible to say that the system was to the disadvantage of the colonists.' The work of such men evidently tends to promote a kindlier feeling between America and England; for, while they leave untouched the great principle of No Taxation without Representation, they remove the notion, which has naturally created soreness, that for a century England was inflicting an actual injury upon the American colonies. It may be that the objects of the legislation must still be regarded as preponderatingly selfish, though as to that some qualification and charitable explanation will probably be necessary: it is a great gain to realise that no harm was done. I have but summarised some of this recent historical work and arranged in order the conclusions to which it points; and for this reason. In the utterances of Englishmen concerning America, I do not know which has done more harm—an ignorant contempt, unjust to America, or an ignorant sympathy, unjust to England. The latter is now, perhaps, the more common. Yet I cannot but hope that the efforts of American scholars to spread among their own people more accurate views of their past will not be impeded much longer by extravagant assertions on the part of Englishmen.

AMERICAN SMUGGLING, 1660–1760

The foregoing argument has met, I am glad to say, with the approval of most of the American historical scholars to whom I have submitted it; and I may be allowed the satisfaction of mentioning among them the distinguished name of Mr. Mellen Chamberlain. Some few, however, have hesitated to admit the full force of my plea; and with them, as with some of my Oxford hearers, the obstacle seems to be an impression as to the wide prevalence of smuggling in the American Colonies. One critic, an eminent Oxford tutor, who has made the eighteenth century peculiarly his own, has recently formulated his objection in the following terms:[1] As to the Navigation Acts proper, the Enumeration, and the restrictions on manufactures, he allows that the foregoing argument has 'proved its point;' and in an admirably concise form he restates the considerations on which the conclusion is based. Very probably 'there were indications even here that the system would not last;' the immediate question before us, however, is only whether it inflicted any considerable hardship while it did last.

But, the critic proceeds: 'when we turn to the regulation with regard to European imports, this argument to a great extent fails.' He very properly observes that my one page on the subject is rather 'an *à priori* argument' as to England's natural position as an *entrepôt* than an appeal to historical evidence. Accordingly, it is with this particular point that he proposes to deal; and after citing various

[1] Mr. Arthur H. Johnson, in the *Economic Journal* for March 1900 (x. 96–103).

contemporary statements about smuggling, he concludes that 'from the very first' the restriction 'was held to be a grievance; from the very first it was violated.' I may be allowed to follow his example and address myself to this one contention.

Let me begin by reminding the reader of the most important exception which I allow in the matter of the non-enforcement of the Molasses Act. I expressly grant that this Act was never enforced during the period under consideration: it is part of my case that it was not even seriously attempted. But the importation of molasses and sugar from the foreign plantations to supply the distilleries was one of the chief businesses of New England;[1] and it is well known how great a ferment was created when at last an effort was made to suppress the trade in 1763. 'It has caused,' wrote Governor Bernard, 'a greater alarm than the taking of Fort William Henry' by the French.[2]

A very large part, therefore, of the smuggling that is complained of by contemporary officials must have been concerned, both before and after the Act of 1733, with this particular branch of trade. How large a part of the whole this may have constituted it is impossible to estimate until the economic history of New England has been subjected to more thorough and scholarly investigation than it has yet received. Evidently, however considerable its magnitude, it would need to be deducted from the total for the purposes of the present argument, which has to do with European products. Of course it may be argued that the non-observance of the Molasses Act creates a presumption that the other Acts were disobeyed. This is cogent enough, *if* the colonists had a similarly strong economic motive for disobeying them. But it is a capital point of my argument that, with regard to

[1] Governor Bernard reckoned that, in 1763, 15,000 hogsheads of molasses were imported into Massachusetts alone, 'all of which, except less than 500, came from Ports which are now foreign. Bernard, *Select Letters on the Trade and Government of America*, written in the years 1763–1768 (1774), p. 10.

[2] Bernard, *Letters*, p. 9. Cf. *supra*, p. 330.

European commodities, it suited the colonists on the whole to get them from England. The necessary qualifications to this statement, to which I shall call attention later, show conclusively that if the colonists had had a strong inducement to purchase goods directly in France or elsewhere in Europe, no statutes would have restrained them. The 'well known *indulgence*' to the West India 'branch of illicit trade' —the phrase is Governor Bernard's and Lieut.-Governor Hutchinson's[1]—was expressly justified by the economic 'necessity' that commerce should take that direction.

That, after making this deduction, a good deal of illegal trade still remains to be accounted for, cannot be denied. Yet it is very necessary to be on our guard, and not hastily to jump to the conclusion that every reference to 'illicit trade' or to smuggling implies a defeat of the Navigation Acts. It is my impression, after turning over great masses of evidence,[2] that undifferentiated 'illicit trade' really tells us nothing, and that the first requisite for a scientific treatment of the matter is an analysis of the different types of transaction comprised under that elastic term. This is a task for some future American historian; meanwhile a few facts lie on the surface. Thus it is apparent that the repression of the profitable traffic which a number of American skippers carried on with the pirates of Madagascar had nothing to do with the Acts of Trade. Yet this was a branch of 'illegal trade' which engaged the serious attention of Governor Bellomont, of New York, towards the end of the seventeenth century.[3] In like manner we may dismiss the occasional invasion by certain enterprising colonials of the East India Company's monopoly of trade in the Eastern seas:[4] they were excluded like all

[1] Bernard, in Dec. 1763 (*Letters*, p. 5), and Hutchinson, in Sept. 1763 (in Mass. Archives; quoted by Gray in Quincy's *Mass. Reports*, 1865, p. 430).

[2] Kindly put at my disposal by my colleague Professor Hart, and by one of my former pupils, Dr. Fish, now Instructor in American History in the University of Wisconsin.

[3] *New York Colonial Documents*, iv. 317, 413, 458, 532, 538.

[4] *New Jersey Archives*, 1st Series, v. 47.

other Englishmen not members of the Company. Then, too, there were import duties imposed by the several colonies, especially upon some of those commodities, such as wines and spirits, in which the eighteenth-century smuggler took most interest; and there is reason to believe that these were evaded whenever there was an opportunity.[1]

Incomparably more important is the consideration that for many years at different periods of the century under consideration the British Empire was at war with France, and that it was at these periods that illicit trade was carried on most briskly. Mr. Lecky has called attention to the military importance of this treasonable assistance to the enemy in the Seven Years' War. 'At a time when the security of British America was one of the first objects of English policy, and when large sums were remitted from England to pay the colonies for fighting in their own cause, it was found that the French fleets, the French garrisons, and the French West India Islands were systematically supplied with large quantities of provisions by the New England colonies.'[2] And it has been recognised by Bancroft himself that the repressive measures of Pitt in 1760 were intended, not to harass the American trader in the interests of England, but solely, 'in time of war, to distress the enemy by famine.'[3] It was these measures which, as Bancroft says

[1] W. Hill on *Colonial Tariffs*, in *Quarterly Journal of Economics*, vii. 98.

[2] *History of England*, iii. 303.

[3] *History*, iv. 376, 377. Pitt's instructions of Aug. 23, 1760, to the provincial governors, are given by Mr. Gray in his Appendix to Quincy's *Mass. Reports*, p. 407. The main purpose of the Government is so often passed over without due emphasis by modern writers, that it may be well to reprint the preamble. 'The Commanders of His Majesty's Forces and Fleets, in North America and the West Indies, having transmitted repeated and certain Intelligence of an illegal and most pernicious Trade, carried on by The King's Subjects in North America and the West Indies, as well to the French Islands, as to the French Settlements on the Continent of America, and particularly to the Rivers Mobile and Mississippi, by which the Enemy is, to the greatest Reproach and Detriment of Government, supplied with Provisions and other

caused 'the first strong expression of discontent in New England,' and which suggested to the Crown the employment of 'writs of assistance.' Yet it has hardly been sufficiently realised that what is true of the Seven Years' War is true also of the earlier wars of the century. Thus, in 1748, we find Governor Belcher, of New Jersey, informing the Home Government that a 'vile illicit trade has been carried on (in too public a manner) between His Britannic Majesty's subjects of several of the King's provinces on this continent and the subjects of the French (and Catholic) King, in a plentiful supply of provisions and other things to the King's enemies, whereby they have been enabled to make great depredations on the King's subjects, and have much ruined the English markets abroad, as well as supplied the ships of war of the King's enemies in the West Indies.'[1] The desire to obtain European commodities cheaply at the French West India Islands, or at the Dutch and Danish islands—which were also centres of this illegal enterprise—may have contributed in some measure to encourage the intercourse complained of; though reason will be given subsequently for believing that this motive could hardly have been of much weight. But in the main it was the outcome of unprincipled greed. And once more it has to be deducted from the sum total of 'smuggling' before we reach that residue with which alone we have here to deal.

Necessaries, *whereby They are principally*, if not alone, *enabled to sustain and protract this long and expensive War*; And it further appearing that large Sums in Bullion are also sent, by The King's Subjects, to the above Places, in Return whereof Commodities are taken, which interfere with the Produce of the British Colonies Themselves,' i.e. of the English West Indies, 'in open Contempt of the Authority of the Mother Country, as well as to the most manifest Prejudice of the Manufactures and Trade of Great Britain; In order therefore to put the most speedy . . . Stop to such . . . Practices . . . so highly repugnant to the Honour and Well-being of This kingdom, It is His Majesty's express Will . . . that you do forthwith make the strictest . . . Enquiry into the State of this dangerous and *ignominious* Trade.'

[1] *New Jersey Archives*, 1st series, vii. 134. For an example of trade with the enemy in 1698, see *New York Col. Doc.* iv. 413.

What, then, was this residue? what was its amount, and what its character? It is, after all, a question of the *proportion* of the illicit importation of European goods to the total importation. Here I must once more express my admiration for Mr. Beer's treatment of the subject. After looking into the evidence with some attention for myself, I find, on returning to his treatise, that he has wellnigh exhausted the contemporary material, and reached conclusions which are only confirmed by additional evidence.[1] 'In the main the colonies consumed English manufactures; few goods were imported directly from the European continent.'

It will be noticed by any one who looks at the information collected by Mr. Weeden, that by far the greater part of it refers to the latter part of the seventeenth century and the opening years of the eighteenth century; three out of four references are to the reports of Edward Randolph (appointed Collector, Surveyor, and Searcher for all New England in 1675), and of the Earl of Bellomont (Governor of New York, New Jersey, Massachusetts, and New Hampshire, 1698–1701). It is curious how very few are the instances of European goods smuggled into the country during the period 1715–60 which that diligent collector has been able to get together. The explanation may be that the years following the Revolution were 'years of confusion in the governmental service in England and the colonies;'[2] it

[1] *The Commercial Policy of England*, pp. 139-143. I may venture to add that on parts of the subject to which Mr. Beer has not given so much attention, as e.g. the drain of specie, his observations are sometimes open to question.

[2] As Professor Channing suggests, *Proc. Am. Antiq. Soc.* Oct. 23, 1899. As to Edward Randolph's reports, it may be noticed (1) that the Navigation Acts proper must have caused some irritation at first and led to a certain amount of evasion, until the shipping of England and of New England had been so increased as to offer freights as cheap as the Dutch; see *supra*, p. 313; and (2) that Randolph's general statements must be received with caution. English readers to whom his American reputation is unfamiliar may conveniently acquaint themselves with it in Mr. Fiske's *Beginnings of New England*. Even American writers, in their eagerness to prove that the Acts of Trade were never obeyed, are apt

may be that the desire to evade the statutes diminished with the growth of a more remunerative as well as legal trade; or it may be, as Mr. Weeden maintains, that the authorities recognised their impotence and grew tired of complaining. But, in this latter case, we should expect the illicit trade to have left more numerous traces of itself in the private business papers of American merchants. Mr. Weeden writes of the great merchant Peter Faneuil, with a contagious confidence that has apparently infected some of his readers, that 'he shipped foreign brandy in false New England rum casks, and smuggled Barcelona handkerchiefs as coolly as he took snuff in the streets of Boston.'[1] But the really surprising thing, when one comes to look through the records of his business during 1725–32 and 1736–42, as Mr. Weeden describes it,[2] is the very scanty trace of illicit transactions to be found in them. Such as they are they are quite petty; and his caution in regard to them, concealing them in one case even from the skipper, certainly would not lead one to suppose they formed part of the ordinary business of Boston merchants. This is the more noteworthy because much of his business was precisely in those directions which led to most of the disregard of the statute. The pessimistic Joshua Gee —the purpose of whose 'Trade and Navigation of Great Britain considered' (1729) was to persuade the English nation that it was on the high road to ruin[3]—objected to 'the trade drove between the plantations, Portugal, Spain, and the Straights,'[4] on the ground that after disposing of their cargoes from New England 'they *frequently* invest part of the produce in goods, which they meet with in those

to forget that, as Professor Hart remarks in another connection (*American History told by Contemporaries*, ii. 30), 'Randolph was sent to the colonies with the mission of finding something wrong, and was bound to justify his employment.'

[1] ii. 658. [2] ii. 607–636.

[3] Hume, in his essay *Of the Balance of Trade*, makes a satirical reference to the influence of his writings, which 'struck the nation with an universal panic.'

[4] Fish and timber were carried out and salt brought back.

places, as Italian silks, French silks, stuffs, druggets, India silk, calico, French, Dutch and Hambro' linens, and the money which should be brought to us is laid out in foreign manufactures.'[1]

The question which must be asked concerning Faneuil's illicit trade must be asked, as I have already remarked, concerning American illicit trade as a whole: what proportion did it bear to the legal import trade? And if weight is to be attached to general statements on the one side, weight must be attached to equally confident statements on the other. Thus, the Swedish traveller, Peter Kalm, writes of the province of New York in 1748, that 'they import from London stuffs and every other article of English growth or manufacture, together with all sorts of foreign goods,'[2] and concludes in the true mercantilist spirit, 'from hence it appears how much a well-regulated colony contributes to the increase and welfare of its mother country.' And the same testimony is given by Gee himself, in spite of his alertness to discover grounds for alarm. As to 'the tobacco plantations,' they

take from England their clothing, household goods, iron manufactures of all sorts, saddles, bridles, brass and copper wares; and notwithstanding their dwelling among the woods, they take their very turners' wares and almost everything else which may be called the manufacture of England.

The growth of the trade of Pennsylvania with the Spanish West Indies by way of Jamaica

has very much enlarged their demands upon us for broadcloth, kersies, druggets, serges, stuffs, and manufactures of all sorts.

As to New Jersey and New York,

their traffic is much the same; we have what money they can raise to buy our manufactures for their clothing;

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[1] Chap. xv. (6th ed. 1760, p. 50).

[2] *Travels*, i. 198–9, 201.

while New England

takes from us all sorts of woollen manufactures, linen, sail-cloth, and cordage for rigging their ships, haberdashery, &c.[1]

Fortunately, as it happens, we are exempted from the hazardous undertaking of balancing vague general statements one against the other, by a piece of evidence which I do not remember to have seen referred to, although it would seem to be conclusive. And that is, the circumstance that American imports from England, far from diminishing when the War of Independence was over—as we should expect if the obligation to buy in England had been a serious grievance—actually increased.[2] This was prophesied by shrewd observers while the conflict was still raging.

It is notorious that at this very juncture, when the American rebels have absolutely prohibited the direct importation of any British goods, they admit, sorely against their wills, various English manufactures, through the intervention of the Dutch, French, and Spaniards. But why? Because they cannot do without them; and therefore must have them, even with all this additional expense.[3]

And Dean Tucker's anticipations were confirmed by experience. If we may trust official figures, the United States 'consumed annually of British produce, according to a six years' average ending with 1792, 2,807,306*l.*, while, on the six years' average ending with 1774, they consumed only 2,216,824*l.*'[4]

[1] *Trade*, &c., chaps. xv.–xix.

[2] I am indebted to my former pupil, Dr. G. S. Callender, now Professor of Economics in Bowdoin College, for calling my attention to the significance of this fact; which, indeed, he has treated in his recent lectures at Harvard as the starting-point of United States economic history.

[3] Dean Tucker's *Series of Answers to certain Popular Objections against Separating from the Rebellious Colonies* (1776), p. 45.

[4] These are the figures from the Ledger of the Inspector-General of English Imports and Exports, as given by George Chalmers, *Estimate of the Comparative Strength*, &c., Dedication, p. xxx, to the edition of

It would be easy to cite scores of contemporary American comments on a sequel to the great war so surprising to many. One will suffice: James Madison wrote, in 1785, 'Our trade was never more completely monopolised by Great Britain, when it was under the direction of the British Parliament, than it is at this moment.' And foremost among the reasons he assigns is that 'our merchants are almost all connected with that country, and that only.' [1]

The situation may be further illustrated by the chagrin

1794. They are open to much criticism (which will be found clearly set forth by Dr. F. Lohmann in *Sitzungsberichte der kön. preuss. Akademie der Wissenschaften zu Berlin*, 1898, liv. 859 *seq.*); but, as no change took place in the system of entry during this period, the figures for each period are subject to the same defects, and therefore trustworthy enough for purposes of comparison. The statistics from the same sources for every decennial period from 1700 to 1780, showing a steady and rapid rise until 1770, will be found in the Appendix to Sheffield's *Observations*, ed. 6 (1784), No. ix. p. 24; for each of the years 1764–1782, *ibid.* No. xiv.; and for 1784 in Chalmers's *Estimate*, p. 147. The commercial difficulties caused by the excessive importations in the first year of peace may be studied in W. Hill, *The First Stages of the Tariff Policy of the United States*, Publ. Am. Econ. Assoc. vol. viii. No. 6, p. 64 *seq.* The figures given by Sheffield and Chalmers do not clearly distinguish, as a rule, between English manufactures and the products of other countries imported into the American colonies by way of England. I know of only two estimates of these latter during the period before us. One will be found in *New York Colonial Documents*, 617; *London Documents* xxii, table 2. This gives 294,886*l.* as the value of British manufactures and products on an average of the three years 1714–1717 (whereof about one-half consisted of woollen manufactures), and 136,141*l.* as the value of foreign goods, thus distributed: linens, 86,413*l.*; calicoes, 10,102*l.*; 'prohibited East India goods' (prohibited, that is, by recent legislation, for English use), 10,523*l.*; wrought silks, 1,189*l.*; iron and hemp, 6,152*l.*; 'in other foreign goods,' 21,760*l.* The other is in Sheffield's *Observations*, p. 230, and is the average for the four years 1767–1770. 'Our exports amounted to 1,839,692*l.*: of this 352,637*l.* was the amount of foreign goods exported, about two-thirds of which, or the sum of 211,581*l.*, was the value of East India goods, and the remainder was in various articles, chiefly from the northern kingdoms, but more particularly low-priced linens from Germany and Russia. The balance, being the sum of 1,487,055*l.*, was wholly in British produce and manufactures.'

[1] Madison's *Works*, i. 156.

of the French government at so unwelcome a proof of the advantages which England continued to enjoy from purely economic causes. France had expected to supply America with manufactures as soon as that country was freed from political fetters. It found that it was able to do nothing of the kind. 'The usual topic' of Vergennes's conferences with Jefferson in Paris in 1785 was precisely this: 'that the trade of the United States had not yet learnt the way to France, but continued to centre in England, though no longer obliged by law to go there.'[1] And finally the magniloquent Citizen Genet, Plenipotentiary of the new French Republic, declared to Jefferson in 1793, and with a great deal of truth, that 'the ties of France with your nation have served only to ruin her national commerce, without obtaining the smallest encouragement to her manufactories.'[2]

We are now in a position to look at a book which, if we can but rely upon it, will conclude the discussion by exhibiting to us just what the legal and the illegal import trade of the American colonies before the war respectively consisted in. It is the 'Observations on the Commerce of the American States,' by Gibbon's friend Lord Sheffield. This was a work which appeared in 1783, and immediately ran through several editions; of which the sixth, enlarged (1784), is now before me. Its purpose was to argue against the proposal of some of the politicians of the time, prompted by the West Indian interests, to throw open the trade of the English West Indies to the United States; and the line it takes is that the disastrous consequences which were predicted if this were not agreed to—and especially that the United States would dispense with English manufactures—were not likely to result, because the Americans could not buy what they wanted on better terms elsewhere. This occasions a survey of English trade with America before the war, and it is that which I now propose to make use of. We might justly suspect evidence thus offered; but, as events showed,

[1] *Writings of Thomas Jefferson*, ix. 230.

[2] Letter of September 30, 1793, in *American State Papers, Foreign*, ii. 243.

Sheffield's prognostications were entirely correct. He was, moreover, in a position to obtain the most accurate information procurable; he certainly had access to the statistics of the Inspector General. He assures us that 'the best judges in each article of exports and imports have been separately consulted, their several opinions have been carefully weighed and compared, and the same interesting questions have again been submitted to a second and more rigorous scrutiny.'[1] I see no sufficient reason to doubt his good faith; so far as I can judge, what Gibbon said of another work of his is applicable to this: 'His materials are copious and correct, and he leaves on his paper the impression of an active and vigorous mind.'

Sheffield begins his survey of the imports into America from Europe[2] with 'Articles in which there will be scarce any Competition.' Among these he places Woollens first:

> In this great and capital article Great Britain will have very little competition, except in fine cloths made in France. . . . But the demand of the superfine cloths from America will be very inconsiderable; the consumption of that country is chiefly of cloths under 12*s.* per yard; the quantity of those of a higher price bears no proportion to that of any one of the inferior qualities down to the coarsest and cheapest; therefore, as the bulk of the woollens must be bought in England, it will be seldom worth while to send to France for the small quantity they may want of the cloths of 13*s.* 6*d.* and 14*s.*, and they will rather take the English superfines. . . . It is certain that all coarse woollens are at this time at least 15 per cent. dearer in France than in England. . . . The following fact is a striking proof of the superiority of our woollens to the French, in the opinion of the Americans. When France granted a sum of money to Congress for clothing the American troops, Mr. Laurens, jun., was employed to provide it; but, instead of laying out the money in France, he went to Holland and so bought English cloths, and sent them to America. The French minister was instructed to complain to Congress of this transaction, so ungrateful and injurious to France; but Mr. Laurens justified himself by saying it was his duty to do the best he could with the

[1] Advertisement to the Second Edition.

[2] *Observations*, p. 7 et seq.

money, and that the English cloths, of equal price with the French, were much better. And further . . . we need only recollect that the importation of goods from this country, through a variety of channels, was so great during the war, that the French minister . . . remonstrated against it more than once. . . . An act was then made prohibiting the manufactures of this country; nevertheless, they continued to be imported to so great a degree, that a remonstrance from the Court of France was presented to Congress, threatening to withdraw their aid if more effectual means were not taken to prevent the importation of British goods.

Under the same head Sheffield places Iron and Steel Manufactures—as to which, however, conditions had so greatly changed since 1760 that his observations have little bearing upon our present subject—and then passes to Porcelain and Earthenware:

The importation has been, and must be, from Great Britain, on account both of the quality and the price. . . . East India china is sometimes cheaper in Holland than in England. America gets of the coarse kinds from St. Croix; but the consumption of china in America is inconsiderable, in comparison to that of British earthenware. . . . Earthenware, procured on long credit from Britain, was a considerable article in the American contraband trade with Spanish South America.

As to Glass:

The importation of looking glasses, drinking glasses, and other glass furniture, though it rose to a large amount, bore no proportion to the importation and consumption of window glass. Except the looking glasses made in Holland . . . there is no article of glass in any part of Europe but the British which will answer in the American market.

Similarly as to Stockings:

The great consumption of stockings in the American States is of worsted, thread, and cotton; that of silk will never bear any proportion; the worsted, thread, and cotton have been, and most probably will be, imported from Great Britain.

As to Shoes:

The importation of men's shoes, except into Virginia, Maryland, the Carolinas, and Georgia, was never to any great amount; but of

women's it was and must continue to be considerable, and will be made from Great Britain principally, until some other nation in Europe shall learn the art of manufacturing and working leather as well.

Passing over what he says under the same head concerning Buttons, Hats, and the new Cotton or Manchester Manufactures, we come to Haberdashery:

Fine linen tapes, incles, and fine thread, are best from Holland or Flanders; but the commonest British tapes are cheapest, and also all kinds of worsted bindings, garters, coarse threads, and sewing silks.

From the other minor articles which Sheffield believes will still be imported from Great Britain—tin in sheets,[1] lead in pigs and sheets, painters' colours, cordage and ship-chandlery, Sheffield and Birmingham manufactures, materials for coach-builders, saddlers, and upholsterers, medicines and drugs, goods for the Indian trade, and books—it may suffice to select painters' colours:

The dwelling-houses . . . are mostly built of wood, which circumstance causes a large demand for oil and painters' colours. Oil is made in some of the provinces, from the refuse of the flax seed; the quantity is trifling compared to the consumption, but the articles for colouring must be imported. The ingredients, whiting or chalk and white lead, . . . being cheaper in Great Britain than elsewhere, must come most reasonably from thence. . . . Considerable quantities of linseed oil went from Britain to America before the war.

Sheffield next proceeds to consider the articles in which 'there may be competition.' Most important among them is linen. He points out that there had been a marked increase in the American demand for British and Irish linens—especially in the coarser sorts—since the bounty given in 1742 had enabled British 'Osnaburghs,' for the wear of slaves, to

[1] What Sheffield says of this commodity may be compared with Macpherson's *Annals of Commerce*, s.a. 1740.

drive out the German goods of the same name.[1] But he allows that, nevertheless, there were great quantities of foreign linens used in America. But he takes it for granted as too obvious to require explanation that these have hitherto usually been supplied through England: which is all that is needed for the present argument. We might have concluded the same thing from the observations of Adam Smith, already quoted.[2] Passing over his accounts of some other less important articles, as giving but little information about earlier conditions,[3] we come to some especially noteworthy statements about Tea and East-India goods. Much has commonly been made of the smuggling of tea into the American Colonies; it is interesting now to learn—if, as I believe, we can trust Sheffield—exactly how this came about; especially as he tells us of some other commodities which were brought in with the tea:

> The Dutch used to purchase in China a kind of black tea (of a quality inferior to any we import), which was purchased by the lower class of people in the northern States on account of its being cheaper than that which came through England. A number of merchants in Boston, New York, and Philadelphia, were concerned in a clandestine trade, either directly from Holland, or by the way of St. Eustatia. These merchants imported low-priced teas, canvas, and certain kinds of Russian and German linens. . . . The middle and southern States use, in common, a finer kind of tea; and as our India Company can afford to sell this tea on full as good, if not better, terms than the Dutch, or any nation in Europe, there is no danger of losing the American markets.

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[1] Compare Macpherson, iii. s.a. 1742; and for the growth of the Scotch linen manufacture, 1740–1760, p. 336. The value of the 'bounty linens' shipped from England alone to all the colonies in 1758 amounted to over 200,000*l.*; *ibid.* 342, *n.*

[2] *Supra*, p. 320. The quantity of 'all kinds of linen imported into the port of London alone, in only the year 1731, from Holland, Germany, and the East Country, *the greatest part of which is again exported to our plantations in America* and our factories in Africa, &c.,' was estimated at 14,000,000 ells.—Macpherson, iii. 182.

[3] Though the figures for the average exportation to America of English silk goods during the years 1770–1775, on p. 47, are not without significance.

East India muslins, chintzes, and other piece-goods—of which 'the consumption has always been very considerable in America'—had hitherto been obtained through England; and likewise pepper, 'the greatest object in the spice trade,' and china earthenware. The finer spices could be furnished to greater advantage by Holland, but 'the value of these articles consumed in America is not great.'

Finally we come in Sheffield's list to those 'articles which cannot be supplied by Great Britain to advantage.' Wine is, of course, the first of these. There was undoubtedly a certain amount of French claret smuggled into the colonies.[1] It may be remembered that from 1678, and more persistently after the Methuen Treaty of 1703, it was the steady policy of the government to exclude French wines from England, a policy which was maintained until Pitt's Commercial Treaty with France in 1786.[2] This exclusion was one of the main weapons of Great Britain in its long struggle with France, and the Home Government could hardly have been expected to allow to the colonials what it did not allow to its subjects in England. Nevertheless, it is well to learn if we can to what extent claret really was smuggled into America. Sheffield's statement is as follows:

> The wines consumed in America are Madeira (generally an inferior sort called New York wine, or rather Teneriffe wine, under the name of Madeira), Lisbon, Fayal, and some sherry. These have hitherto composed nineteen-twentieths of the whole ever consumed in the American States. The quantity of port and claret has been comparatively inconsiderable.

This is in complete accord with the report of Governor Bernard in 1763:

> The wine generally used in this country heretofore has been Madeira; but of late that has grown so extravagantly dear that few people can afford it. The wines of the Western Isles are now in the general use of this country, but some gentlemen prefer Portugal wines. French wines can never be an article of trade

[1] An example in Weeden, ii. 558, under 1719.

[2] Cf. *supra*, p. 278 seq.

here, as what comes to America is in general bad and very perishable; and when it is good it comes as dear as Madeira, and is not near so much esteemed. And though there is now here, under prosecution, a small vessel of 130 tons, laden with French wines, said to be bound from Bordeaux to Eustatia: yet this will not conclude for the frequent use of French wines here. For though this vessel were intended to be unladen on this coast, she would be a singular instance for some years past, and her cargo would supply the demand for French wine in New England for two or three years.[1]

What Bernard and Sheffield tell us is confirmed by much other evidence.[2]

But the direct importation of wine from Madeira and the Azores was expressly permitted by statute throughout our period.[3] In addition to this, 'an indulgence time out of mind allowed' had been to permit wine from the 'Portuguese continent' in small quantities to pass as ship's stores. This, said Governor Bernard, he had 'always understood to be well known in England, and allowed as being no ways injurious to the trade of Great Britain.'[4]

As to the other articles which Great Britain could not supply, cambrics, says Sheffield, were 'not consumed to a considerable amount;' and the importation of sweet oil,

[1] *Letters*, p. 3.

[2] Thus Kalm, in 1748: 'Most of the wine which is drunk here and in the other colonies is brought from the Isle of Madeira, and is very strong and fiery.' And even Peter Faneuil left in his cellars at his death Madeira to the value of 900*l.* and claret to the value of only 150*l.* Weeden, ii. 909.

How early the use of Madeira commenced in New England may be illustrated from the account of his voyage to New England in 1638, written by John Josselyn in 1673, and presented by him to the Royal Society (*An Account of Two Voyages to New England*, 1673; second edition, 1674; reprinted 1865, and in *Coll. Mass. Hist. Soc.* 3rd ser. iii.). Off the coast of New England they came upon 'a Barke of 300 Tuns, laden with Island Wine . . . bound for Richmond's Island.' Wine from 'Phial, Madera, Canaries' was freely drunk in the colony when he visited it again in 1663-1671; pp. 41, 211-212. I am indebted to President Eliot for a reference to this curious narrative.

[3] The details in Beer, p. 37.

[4] *Letters*, pp. 2, 4.

raisins, figs, olives, and other fruits was chiefly supplied by smuggling from the Spanish peninsula and Italy, but was 'not of a capital amount.'[1] Concerning brandies his remarks are more significant. The fact that Peter Faneuil on one occasion in 1738, with every circumstance of secrecy, smuggled two casks of brandy into Charleston concealed in the midst of a great cargo of rum, has been treated as if it implied a flourishing contraband trade in brandy.[2] But if we may trust Sheffield

> there has never been any great consumption of brandy in the American States, nor will there be, so long as good West India rum can be had from 1*s.* 3*d.* to 2*s.* per gallon, which was the case, and the people preferred it.

And this is confirmed, singularly enough, by the record of Fanueil's own property, made on his death in 1743. He left behind him, besides a large quantity of Madeira and a moderate allowance of claret, five tierces of rum and twenty-five gallons of arrack, but apparently no brandy whatever.[3]

[1] Mr. Weeden (ii. 660) prints the following letter from a certain Boston official to a prominent merchant of Salem in 1759: 'I shall esteem it a favour you'll take an opportunity to inform all your merchants and others, concerned in shipping up *wine, oil, olives, figs, raisins, &c.*, that I am determined publicly to inform the collector of this port of any those articles I can find out are on board any vessel commanded by Captain Ober, in order they may be seized. I shall not concern myself about any other coaster, let them bring up what they will; but this Captain Ober has cheated me in such a manner . . . that I'm determined too keep a good look out on him; therefore would have all those concerned in that trade regulate themselves accordingly; and if they will risk *any such prohibited goods* in said Ober's vessel,' &c. This is, of course, evidence that the importation of certain prohibited goods was usually winked at. But it is also evidence of what these prohibited goods were likely to be at a place like Salem. And it can scarcely be supposed that 'wine, oil, olives, figs, raisins, &c.,' were the staples of Salem import trade. The importation of fruits 'in small parcels' as ship's stores, was a well-understood 'indulgence.' Bernard, *Letters*, p. 4.

[2] Weeden, ii. 627, 635, 658.

[3] The inventory for probate is given in Weeden, ii. 909.

What, then, is the conclusion of the whole matter? It is that—with the exception, as always, of the molasses business—the great bulk of the American import trade was strictly legal, because the colonials had no interest that it should be otherwise. In one way or another there was a good deal of illicit trade, no doubt; yet it formed but a small proportion of the whole. Sheffield, predicting that the American states would 'in future, as they did before, give the preference to British manufactures over all others,' makes this just comment:

> For the preference formerly given was not the effect of our restrictions; nothing was easier for the Americans than to evade them, and it is well known that from the first they uniformly did evade them whenever they found it to their interest.[1]

The important thing is that they did not find it to their interest to any (comparatively) large extent.

And the reasons are not far to seek. The staple requirements of New England, and, first of all, woollen clothing, could be supplied more cheaply in England than elsewhere. It was the quality and cheapness of English cloth which enabled it in the first half of the seventeenth century to secure the North German market, and would have given it the French market but for Colbert's high tariff of 1667. As soon as the barrier was removed by the Commercial Treaty with France in 1786, English cloth again beat down the competition of the French domestic product. And as to such commodities of other European countries as could not be produced so cheaply in England, everything tends to confirm the *à priori* argument of the previous paper. To quote Sheffield for the last time:

> It is certain many foreign articles will go to America through Great Britain as formerly, on account of the difficulty the American merchant would find in resorting to every quarter of the world to collect a cargo. The Americans send ships to be loaded with all sorts of European goods. A general cargo for the American

[1] *Observations*, p. 234.

market cannot be made up on such advantageous terms in any part of the world as in England. In our ports all articles may be got with despatch—a most winning circumstance in trade.[1]

It would be worth while for some American scholar to determine just when the Acts of Trade first came to be looked upon by Americans as constituting or having constituted a grievance—after the first irritation had subsided which the Navigation Laws had occasioned in the third quarter of the seventeenth century. Doubtless, when once the breach with the mother country had taken place, American writers and speakers described the system as a grievance, and imputed a like feeling to earlier generations. But certainly it is not easy to find any expression to that effect in the twenties, thirties, forties, or fifties of the eighteenth century. It is well known that American politicians, during the earlier years of the controversy with the British Government, constantly drew a sharp distinction between legislation for the control of trade and legislation for the securing of revenue, and declared again and again that with the former they had no quarrel. As late as 1768 we find the shrewd Franklin expressing his regret that such a position was still pretty generally taken, and arguing for a more sweeping denial of the

[1] *Op. cit.* 251. For other references to 'well-assorted general cargoes' see pp. 39, 43. Cf. Chalmers, *Opinions on interesting subjects . . . arising from American Independence* (1784), p. 116: 'We ought to learn from the New Englanders . . . how to form those miscellaneous cargoes,' &c. Another reason, to which all contemporaries conversant with the circumstances refer, as explaining why American importers preferred to buy their European commodities in England, is the long credit that was allowed. Thus Dean Tucker writes (*A Series of Answers*, 1776, p. 30): 'The trade of Great Britain with the Colonies rests on a much firmer Foundation than that of a Nominal Subjection by means of Paper Laws and imaginary Restrictions—a Foundation so very obvious, as well as secure, that it is surprising it hath not been taken Notice of in this Dispute. The Foundation, I mean, is the Superiority of the British Capitals over those of any other Country in the Universe. As a signal Proof of this, let it be observed that the British Exporter gives long Credit to almost every Country to which he sends his Goods; but more especially he used to do so to North America.' Cf. Sheffield, p. 248.

legislative authority of the British Parliament.[1] In not going at first beyond an objection to taxation without consent, the American leaders were doubtless influenced by weighty political considerations; yet it is hard to believe that they would have been so restrained in their utterances if, during the preceding hundred years, the Acts of Trade had really been felt to be galling restraints.

It used to be said that James Otis, in his argument in court against Writs of Assistance in 1761, protested against the Acts of Trade as a whole; and herein the significance of the episode has often been supposed to consist. This is the version of the matter which Mr. Lecky has followed. 'James Otis,' he tells us, 'signalised himself by an impassioned attack on the whole commercial code, and on the alleged oppression of Parliament, which excited great enthusiasm in the colonies, and was afterwards regarded by John Adams and some others as the first step towards the Revolution.'[2] But it is now recognised that the 'impassioned attack on the whole commercial code' was the offspring of John Adams's senile imagination in much later years. In the only contemporary account of the argument, preserved in certain fragmentary notes of Adams himself, there is no trace of any protest against the system as a whole. The argument was mainly technical, and turned on the distinction between general and special writs; the only point of principle raised was the alleged invasion of an Englishman's 'privilege of house.'[3] A contemporary article in the 'Boston Gazette,' very probably from the pen of Otis himself, expressly

[1] Franklin's *Works*, vii. 391–394. 'I know not what bounds the Farmer'—Dickenson, Author of *Letters of a Farmer in Pennsylvania*—'sets to the Power he acknowledges in Parliament to regulate the trade of the colonies. . . . In *my* opinion the grievance is that Britain forbids us to buy manufactures from any other country. This she does, however, in virtue of her allowed right to regulate the commerce of the whole empire, allowed I mean by the Farmer, though I think whoever would dispute that right might stand on firmer ground.'

[2] *History of England*, iii. 304.

[3] The literary history of the matter would be comic had it not been so serious in its consequences. The whole matter was cleared up in 1865,

distinguishes between the policy of issuing writs of assistance and 'all just restraints of the laws of trade.'

by Mr. Justice Gray (now Associate Justice of the U.S. Supreme Court; formerly Chief Justice of the Supreme Court of Massachusetts), in the elaborate discussion of Writs of Assistance which he contributed as an Appendix to Quincey's *Massachusetts Reports, 1761–1772*; but it was some time before the significance of his work was perceived by popular writers.

Adams's contemporary account will be found in his *Works*, ii. 523 (reprinted by Hart, *Contemporaries*, ii. 375); the original notes, taken in court, upon which the account was based, have been reproduced by Gray, *op. cit.* p. 469.

Fifty-seven years later Adams was asked by William Tudor to give him an account of the speech of Otis, with a view to a *Life* of Otis, which he proposed to write. Adams modestly replied that he could not reproduce from memory 'an argument of four or five hours;' but as '*some* of the heads of his discourse' were 'indelibly imprinted' on his mind, he would endeavour to 'give some *very short* hints on them.' It is almost incredible, but true, that this is followed by eight-and-thirty pages of supposed reminiscence, including an elaborate account and criticism of the Acts of Trade, beginning with an exposition of the rights of man in a state of nature, and ending with the reproaches which his hero hurled at the English 'nation, parliaments, and kings' for their 'injustice, ungenerosity, ingratitude, cruelty, and perfidy in all their conduct towards this country.' (*Works*, x. 314–362.)

So extraordinary a memory was too much even for his grandson and editor, Mr. Charles Francis Adams, and he felt moved to make this entertaining remark: 'By comparison of this sketch of Mr. Otis's speech with that taken at the time, as well as with Mr. Otis's published writings, it is difficult to resist the belief that Mr. Adams insensibly infused into this work much of the learning and of the breadth of views belonging to himself. It looks a little as Raphael's labour might be supposed to look, if he had undertaken to show how Perugino painted.' (*Ibid.* 362 n.) Mr. Justice Gray, in less flowery language, describes Adams's 'elaborate narrative' as 'rather a recollection of the sentiments of the colonists between 1761 and 1766;' I should myself be inclined to give an even later date.

As soon as these letters were printed in 1856 the untrustworthy character of the account was at once apparent to every one who read them. But, unfortunately, Tudor had already printed a summary of Adams's lucubrations as an abstract of the speech of Otis, in his *Life of Otis*, published in 1823, and thereby given wide currency to the story. And it is this work from which Mr. Lecky has obtained his information,

I have sometimes heard it asked, especially by English readers under the influence of Mr. Lecky and the late Sir John Seeley, 'If the Acts of Trade were not felt to be a grievance before the attempt to enforce the Molasses Act and to raise a revenue for the Crown, what was the cause of the American Revolution?' Well, there were a number of causes of discontent in various parts of the country, each of which is now being allotted its share in bringing about the collision. I have already referred[1] to the irritation of the New England lumbermen at the attempt to preserve the best mast trees for the royal navy;[2] and to the alarm of the New England ministers at the supposed encroachments of the English Church. It is the merit of Mr. Mellen Chamberlain to have shown the importance of this latter element in the problem. It explains the fact, to which he calls attention, that 'the clergy of New England, alone of all the professional or propertied classes, arrayed themselves on the popular side.'[3] To these causes has been lately added, by that indefatigable student of the tangled currency history of Massachusetts, Mr. Andrew McFarland Davis, the action of the home government in suppressing the Land Bank. The legislation of the English parliament was, indeed, as he shows, passed in answer to the appeals of 'the capitalists and intelligent business men' of the province. Yet the anger which it aroused is sufficient, in his judgment, to

and which he speaks of as 'a remarkable work from which I have derived much assistance'! (*History of England*, iii. 304 n. 1).

[1] *Supra*, p. 333.

[2] For this see Miss E. L. Lord, *Industrial Experiments in the British Colonies*, pp. 101–123.

[3] See the paper reprinted in *John Adams, with Other Essays* (1899), pp. 20–35. Some account of the action of the English ecclesiastical authorities and of the Society for the Propagation of the Gospel, which caused so much alarm, may be found in a paper by Mr. A. L. Cross, in the *Report of the Am. Hist. Assoc.*, 1896, i. 231. It is understood that a more considerable work on the subject may shortly be expected from the same hand. The anxiety of the English authorities to avoid giving offence, and their utter failure to escape criticism, may readily be seen in the documents reprinted in Hart, *Contemporaries*, ii. pp. 289, 418.

explain 'the sympathy of the agricultural community' with the revolutionary cause. He cites with approval the observation of John Adams, that 'the Act to destroy the Land Bank scheme raised a greater ferment in the province than the Stamp Act did;' and he throws this curious sidelight on the character of the other Adams:

> As we look over the list of Directors of the Land Bank we see the name of Samuel Adams, and in later Reports of Committees his estate is classed among the delinquents. It is known that the harassing proceedings taken against the estate of the father were a source of annoyance to the son, whose prominence in the political affairs of the Province just before the Revolution has made us familiar with the name. The defiance by the latter of the Sheriff who was trying to levy upon his father's estate, was published in the News-letter in 1758. Who shall measure the effect of these proceedings upon the mind of the future inspirer of the Committees of Correspondence—the indefatigable and persistent leader in the revolutionary movement?[1]

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[1] 'The Currency and Provincial Politics' (reprinted from *Publications of the Colonial Society of Massachusetts*, vol. vi. 1900), pp. 15–17. It may be well to add a list here of Mr. Davis's previous writings on colonial currency:

1. 'Provincial Banks: Land and Silver,' *Publ. Col. Soc. Mass.* iii. 1895.
2. 'Legislation and Litigation connected with the Land Bank of 1740,' *Proc. Am. Antiq. Soc.* 1896.
3. 'Currency Discussion in Massachusetts in the Eighteenth Century,' *Quarterly Journal of Economics*, xi. 1896 and 1897.
4. 'The General Court and Land Bank Litigants,' *Proc. Am. Antiq. Soc.* 1897.
5. 'Certain Considerations touching the Coinage of the Colony and the Public Bills of Credit of the Province of the Massachusetts Bay,' *Proc. Am. Academy of Arts and Sciences*, xxxii. 1898.
6. 'A Connecticut Land Bank of the Eighteenth Century,' *Quarterly Journ. of Economics*, xiii. 1898.
7. 'A Search for a Pamphlet by Governor Hutchinson,' *Proc. Mass. Hist. Soc.* 1899.
8. 'The Massachusetts Bay Currency, 1690–1750,' *Proc. Am. Antiq. Soc.* 1899.
9. 'Previous Legislation,' *Publ. Col. Soc. Mass.* vi. 1899.

Further research will probably reveal causes of discontent special to the Middle and Southern Provinces. But to assign the Revolution to any one particular grievance, even were it Taxation without Representation, or to any number of grievances, is altogether too superficial a view of the event. It was the inevitable outcome of the conditions; and the policy of England, even had it been guided by the supremest wisdom and the tenderest regard for the feelings of the colonials, could only have postponed the schism. For it was the expression of that drifting-apart which mere geographical separation was—in that age—bound to produce, and of that determination to manage their own affairs which centuries of self-government had implanted in Englishmen on both sides of the water. Those of us who have lived in any of the greater English colonies of our own time are aware that the real danger to the imperial tie lies—not in the stupidity of Downing Street, much as it may deserve blame—but in the want of mutual knowledge and of common interests of every-day life. And if, even with the present, enormously greater, ease of communication, the permanent cohesion of the British Empire is still a matter rather of hope than of assurance, no 'old colonial system' is necessary to explain why one of its distant members fell away from it a hundred and forty years ago.

INDUSTRIAL ORGANISATION

THE CANADIAN SUGAR COMBINE[1]

My purpose in the present paper is to examine one, but that one of the two most important, of the combinations dealt with in the recent Report. With two preliminary remarks, I will plunge into the midst of the subject. The first is, that my own bias when I began to examine the subject was strongly against all such combinations of trades, and that I had been strengthened in that feeling by a recent vigorous article on American and Canadian Trusts and Combines by Professor Andrews, of Cornell, in the 'Quarterly Journal of Economics.' The second is, that while I shall put before you some considerations which may lead us to take a more charitable view of the Sugar Combine than is usual, I do not

[1] [The following paper was written in the spring of 1889, to be read before a small private society in Toronto, and was printed in the *University Quarterly Review* (Toronto), February 1890. Although I am unable to bring the account 'up to date,' this paper may still prove of some interest as a description of a typical form of industrial combination. It is based upon the Report of a Select Committee of the Canadian House of Commons, dated May 16, 1888. I may add that the publication of this paper gave rise in some quarters to the assertion that I had been 'bought by the Combine,' in others to the conviction that I wrote under direct inspiration of the Devil!]

wish to be regarded as defending every sort of combination; for though there are forces at work which tend naturally in the direction of such methods of industrial organisation, these methods are obviously full of dangers to the community. It must be remembered that I am here dealing only with a small part of a great subject.

Let me first ask your patience while I give you an outline of the external history of the Canadian association; and then we will turn to some of the economic considerations which the subject suggests.

It appears that it is the practice with the vast majority of retail grocers in the Provinces of Ontario and Quebec to buy their wares not directly from the various producers, but from middle-men, known as 'wholesale grocers.' All these wholesale grocers, with, as far as I can learn, only four exceptions out of eighty-eight—two firms in Montreal, and one each in Quebec and Toronto—have united in making, and in maintaining, since April, 1887, a certain agreement with the Canadian sugar refiners; who, owing to the present tariff, possess what is, practically, a monopoly of the Canadian market. They pledge themselves, in selling to retail grocers those grades of sugar which form the staple demand in that commodity, to make neither less nor more than a fixed advance on refiners' prices. In return, the refiners promise to charge such wholesale grocers as wish to buy from them, but will not conform to the arrangement as to the prices just mentioned, a price higher, by a certain fixed amount, than that which they charge to grocers in the combination; and also to refuse to allow them the ordinary trade discount: so that sugar costs the non-combiner some thirty cents per hundred pounds more than it costs the combiner. 'There is no evidence,' says the Report, 'of any combinations among the refiners to fix uniform prices at which they should sell.' The Report does not point out, as it might, that so far as this is true it is not due to any superior sense of public duty on the part of the refiners, but to the fact that circumstances already give them the advantages of a combine. There are but four refineries in Canada—the Canada Sugar Refinery at

Montreal, the St. Lawrence Refinery, a refinery at Moncton, New Brunswick, and another at Halifax. The first of these has much the largest capital, plant, and production; the refineries in New Brunswick and Nova Scotia are at some disadvantage in the trade of Quebec and Ontario on account of distance; and I am informed that the Moncton sugar is regarded as of inferior quality. At the time of the inquiry, while the St. Lawrence refinery was temporarily idle, owing to a recent fire, the Canada Sugar Refinery supplied, said the president of the company, perhaps two-thirds of the total output of sugar in the Dominion. One large retail grocer told me that in his opinion 75 per cent. of the sugar used in Toronto was supplied from this refinery. Now it is beginning to be remarked that the existence of possible competitors by no means always implies actual competition in prices. When one undertaking has got possession of the greater part of the market, smaller manufacturers will usually prefer to benefit by the prices it fixes, rather than invite extinction by an attempt to undersell it. Accordingly we find that the Canada Sugar Refinery practically fixes the prices for the whole country. The arrangement is substantially as follows: The Secretary of the Wholesale Grocers' Combine goes to the office of the C.S.R. once a week, receives its price list, and then telegraphs it to the wholesale grocers all over the country as the standard upon which they are to make the advances agreed upon. The result is that sugar is purchased at uniform prices at any particular time by all the wholesale men in the combine, and again sold by them at any particular time at uniform prices to all retailers. But, even with this explanation, the remark in the Report is scarcely accurate; for there does exist an understanding among refineries to cut down production in equal proportions if the production exceeds the demand, i.e. to prevent a glut in the market and an excessive fall in price.

The object of the combine was to fix a uniform price at which the wholesale men should sell to retailers. Such an agreement they would have found it impossible to maintain had they not obtained the assistance of the refiners. The

refiners agreed to sell on the more favourable terms only to those grocers whose names appeared on a list furnished to them by the secretary of the combine. This gave the combine an easy means of inflicting penalties on those who would not abide by their agreement, viz., by striking them off the list. The four firms who either refused to join or have since withdrawn from the combine, have to balance the pecuniary advantage of selling their sugars cheaper than the other firms in order to secure trade on other articles, against the pecuniary disadvantage of having to pay more for their sugar. Besides this, the combine has struck off its list a number of dealers whose business was wholly or in part retail. This was in deference to the remonstrances of the great mass of the retailers, who urge that all retailers should be placed on the same footing and compelled to purchase from wholesalers. To add the final touch of gloom to the picture, the consumer, the idol of orthodox economists, has suffered from higher prices—probably to the extent of a cent a pound.

But now let us penetrate a little farther back, and seek the causes that led to the combination being set on foot. The reason of course was that the wholesalers thought they were not making sufficient profit on their sugars. This is an opinion which dealers often entertain with respect to their wares; but in the case of sugar there were peculiar circumstances which seemed to justify the belief. What is known as *cutting prices*, i.e. selling at a price which barely covers original cost, was a growing feature in their trade. Whether this was due chiefly to the competition of the wholesale grocers with one another, or to the pressure of the retailers, it is hard to say. Probably it began with the retailers. It is the frequent practice of certain grocers, especially, as I learn, in some of the large stores in the artisan quarters of the town, to offer sugar at an unusually low price; either on condition that some other article, usually tea, should be bought at the same time, or else merely in the hope of attracting custom. It is obvious that, if they have to pay the same price for their sugar as other grocers, one of four

things must happen. Either they must be content with a smaller profit than other grocers, which is not likely; or they must succeed in making so large a business as to be able to turn over their capital more quickly than other grocers, which is seldom likely to be the case; or the other articles must be either inferior in quality or dearer than those sold elsewhere. Doubtless one or other of these latter alternatives often results, but neither is safe; and therefore such a grocer will generally turn his attention to getting his sugar cheaper. The same sort of motives will induce wholesale grocers to meet him halfway—to agree to sell sugar at some especially low rate, on condition that he will purchase other goods from them. The next stage is reached when our enterprising store-keeper's cheap sugar gets to be heard of by neighbouring grocers. They turn round on the wholesale men, and demand to have their prices also reduced. As a large retail grocer, doing what we might describe as a highly genteel trade, and certainly under no special temptation to cut prices, said to me: 'I say to the traveller, "Look here! So-and-so is selling his sugar at such and such a price. He must have got it cheap somewhere, and I intend to have my sugar cheap too."'

Such then was the condition of affairs; what my friend described as 'a go-as-you-please,' which seems to be the politer Canadian equivalent for 'the devil take the hindmost.' This feature of the question is somewhat inadequately touched upon in the Report. It says that 'the alleged demoralisation of the sugar trade was but the same condition of this trade as had existed for many years owing to the custom of selling sugar at a low rate of profit.' But no serious attempt was made during the inquiry to show that this unhealthy cutting of prices was not, as the combiners alleged, an increasing evil. Indeed, there are reasons for believing that evils of this sort will in the absence of combination go on increasing. There is a marked tendency for the number of stores to increase more rapidly than population. One effect of the present position of the artisan class, and of the facilities for elementary education, is to tempt the sons of artisans to try

to lift themselves into the class of shopkeepers. The same tendency shows itself in the country, where, as I am informed, a quite unnecessary number of stores are started by the ambitious sons of farmers, only to meet with speedy failure. Stores increasing faster than population, the competition among them becomes keener, and the temptation increases to bribe customers by offering them some staple article at a very low price. The same effect is produced by the increasing aggregation of large masses of consumers in towns. With many rivals within a stone's throw, and a large trade possible if he can but attract it, it is no wonder that the grocer looks around for some attraction to offer.

The sacrifice which the retailer could shift on to the wholesaler, the latter could not escape. As before explained, one refinery practically commands the market; and it fixes its prices according to the fluctuations in the prices of sugar in America and Europe, so as to be just below what might prompt dealers to import. Under these circumstances the suggestion that an agreement should be made between refiners and wholesalers came from the latter. If ever they had threatened, as they told the commission, not to buy and sell sugar at all unless the refiners would help them to put a stop to cutting, it was a threat they were not very likely to carry out. But evidently there was a very keen dissatisfaction among most of the customers of the refiners, and it was natural that each of the refineries should be willing to make the arrangement we have described.[1] Besides, however large might be the market commanded by the Canada Sugar Refinery, if it had refused to make terms with the wholesale grocers the latter would probably have come to terms with the three other Canadian refiners and have left it in the lurch. It does not appear that the refiners have made use of the combine to secure higher profits for themselves. It was alleged by some of the witnesses that they had taken advantage of it to lower the quality of the sugar; but no evidence was offered in support of the charge.

[1] As one of the hostile witnesses said, 'the merchant has no longer the necessity of worrying the refiner on the prices he pays him' (*Report*, p. 18).

The witnesses examined in opposition to the combine were all either wholesale or retail grocers. The wholesale men, whom we will call Messrs. A and B,[1] both of Montreal, took up the position that they had a *right* to cut sugar if they pleased, and that the refiners had no right to charge them any more for their sugar because they would not agree to maintain uniform prices. Says Mr. B, 'I maintain the right to conduct the business I have to do with as I think proper;'[2] and again, 'I have been a long while in business: longer than any of these gentlemen who came to me; and to be put at the disposal of any committee who might come into my house and say "We will fix the price of this thing" . . . was one of the reasons why I distinctly opposed it. . . . I also had a long experience given me to understand that matters of this kind never came to anything. There are always ways of defeating it.'[3] If he once believed it innocuous, he no longer deems it so, but rather 'a conspiracy of a most unlawful and outrageous character.' 'If any British subject had been in the middle of Africa and had been treated in connection with a matter of this sort as we have been treated, it would have been crushed at once by a British fleet sent for the purpose'[4]—a fine figure of speech, which reminds one of Shakspere's reference to the sea coast of Bohemia.

The other dissentient wholesale grocer, Mr. A, took up the same ground, and expressly said it was to 'the principle of the thing' that he objected—to his being dictated to as to the price at which he should sell his goods. Indeed, he readily confessed that the arrangement did not secure the wholesale man more than a fair profit.[5] He maintained, however, that while they were justified in making an agreement among themselves, they were not justified in making one with the refiners. 'The refiners exist by the protection

[1] It is not necessary to introduce the actual names. They can be easily ascertained by any one who will take the trouble to consult the Report.

[2] *Report*, p. 29. [3] P. 30. [4] P. 32.

[5] Pp. 17, 18. Cf. also the evidence of a retail grocer, p. 63.

which they receive from the people.' 'The gild have the right to do their business as they see fit, and the refiners have not that right.'[1] He sometimes refers to the consumer—not that he believed the consumer had as yet been injured, but he thought he might be. 'There is nothing to prevent these sugar combinations, which are satisfied with 5 per cent. to-day, not being satisfied with 15 per cent. next year.' But he frankly told the committee that it was not in the consumer he was interested, or in the question of right or wrong.[2] What he objected to was his not being allowed to go on cutting prices, a procedure which he thought would be more for his advantage than agreeing to the rates of the association.

'Q.—Is it not better for a business man to have a decent profit, so long as it is not too much, than to cut and slash into trade? A.—If I thought that were a better way of doing business, I should be a member of the gild.

'Q.—But so long as the consumer does not suffer? A.—I have told you that my objection to this is on a business stand, not on the moral right or wrong of the agreement; that as a business man I claim that it is not in favour of our business, and therefore I object to it.'[3]

And in answer to a leading question of the chairman, which gave him a last chance to take up an unselfish attitude:

'Q.—As a business matter, you make more by being in a sugar combination than by being out of it? A.—I claim that it is better to be out of it, and therefore I object to be (forced?) into it.

'Q.—It does ensure you a profit. A.—*It might pay me to do my sugar business without a profit.*'[4]

The opposition was joined by many of the retail grocers, especially in Quebec and Montreal. Three reasons for objecting to the combine were brought forward by them: (1) that they had to pay more for sugar; (2) that they were hindered from dealing directly with the refineries; and (3) some of the petitioners just remember to mention that the consumer also has now to pay a higher price. Most of them

[1] *Report*, p. 18; cf. p. 24. [2] Pp. 19, 20. [3] P. 20. [4] P. 23.

felt that it was not wise to insist on this last point, for if the consumer paid more it meant that the retail dealer shifted over to him the increased cost, so that in that respect he had little to grumble about. We may readily conjecture that the source of the irritation of some of the retail grocers was the same as of Mr. A—the fact that they were hampered in their efforts to secure trade by cutting prices.

The second grievance, that the combination prevented them from dealing directly with the refineries, was urged chiefly by the Montrealers. They were especially touched by the exclusion, because, having their business near the great refinery, it would pay them to deal directly when it might not pay most retailers elsewhere. It does not appear that any considerable number of retailers had, prior to the combine, been in the habit of buying from the refiner. It has been explained to me, by the grocer to whom I have before referred, that in the days before the combine, sugar was 'cut so low' by the wholesale men that there was no inducement to the retail men to go to the refinery; it was only after the combine had been formed and the combiners' prices had gone up, that it became profitable to deal directly with the refiner. I have no doubt that the exclusion bore hardly upon a small number of large storekeepers, or men who were partly wholesale, partly retail; but it may be noticed that the demand that they should be excluded came, in the first instance, from the great mass of the retailers, and not from the wholesale men. When the list was first drawn up, the refiners caused to be put upon it the names of all those persons who had been in the habit of buying from them in any considerable quantity. Whereupon the associations of retailers remonstrated, and it was to satisfy them that the refiners and wholesale men removed the names of all retail dealers from the list.

It will be objected, and with truth, that the exclusion of the storekeeper from dealings with the producer means that there shall remain a class of middlemen perpetually quartered upon the public, a class which might conceivably be dispensed with. But it must be noticed that such a class had come

into existence long before the combine: it is the natural product of modern methods of carrying on business; and when the public is aroused to get rid of it, as by such a movement as that of the Co-operative Societies of England, the public is apt not to stop there, but to get rid of the retail storekeeper also. And it is clear from the evidence that the great body of retailers were just as anxious to retain *their* position between the public and the wholesale men. The retail associations had sent deputations to the wholesale men remonstrating with them for occasionally selling tea and sugar to family customers. Said one of the witnesses: 'I did not individually object,' but yet he joined the deputation on the subject 'in order to give a sort of weight to it.'[1] Said another: '*My idea is that the retailer should have control of the consumer.*'[2] What this might mean is curiously illustrated by an example referred to in the evidence. The Grey Nunnery in Montreal is apparently supplied direct by the wholesaler. Its consumption is doubtless so considerable that it is convenient to buy in large quantities: nevertheless, the retail grocer feels aggrieved that it is not obliged to come to him and pay him retail prices.

No retail grocers from Toronto were examined—probably because they had tried to form a combine themselves. It was organised at the same time as the wholesale combine, in the spring of 1887, with the object of securing uniformity of retail prices, and preventing underselling. The informant of whom I have already spoken attributed its break-up, after weathering the fruit season of 1887, to the influence of the 'Globe.'[3] 'You see the "Globe" wanted to attack the N.P.,[4] and so it took up this combines business, and made a great row about it, and some of the men who wanted to get out of it made that an excuse.' 'Well, what is your opinion of

[1] *Report*, p. 85. [2] P. 61.

[3] [The chief Liberal newspaper of Toronto.]

[4] [The 'National Policy,' the current term for the protectionist policy of the Conservative Government headed by the late Sir John Macdonald.]

the wholesale combine, as it is now?' I asked as I came away. 'It suits me all right—it makes business easier, now I know that nobody can get sugar cheaper than me. Though of course the *consumer* pays the higher price. But personally I am a free trader and against the N.P., and I think there ought to be free competition in everything.' His fervour as he made this confession of faith was perhaps a little suspicious. I am afraid he had an impression that Political Economy enjoined competition as a moral duty, and that it was expedient to conciliate one who was both a professor and a consumer.

Having seen what the facts are in the case of the sugar combine, let us try to see how they might present themselves to an economist. There are one or two initial misconceptions as to the position of the economist which it may be well to clear out of the way. They are so evident that I must apologise for touching upon them at all; and I would not do so, had I not found that opinions, that few would assent to when nakedly stated, exercise a more or less unconscious influence when left in comfortable vagueness at the back of the mind. In the first place, then, no modern economist of repute teaches that absolutely free competition—either between individuals or between nations—is a rule which ought to be observed at all times and places, or even that it has necessarily a claim to be observed at any particular time or place. The modern economist deals with the force of competition in two connections: either as an abstract assumption used for a particular purpose, or as the means best employed in certain cases to reach certain results. First as an assumption: orthodox economists believe that it is useful to obtain certain generalisations, sometimes called 'laws,' about rent, wages, and prices. They argue that it is impossible to take into account all the varying motives which influence men; that it is better to take one great motive, confessedly of much greater importance than any other, and follow out its consequences; and then they say that, though

the result may not exactly fit every individual case, it is on the whole and roughly speaking true; so that we may, at any rate, use it as a standard of comparison. Take for instance the question of rent. They say that, given free competition, supposing the landlord insists on the highest rent any one will pay, and the tenant pays as little as he can get the landlord to take, and there are other persons offering to let land, and other persons ready to take the farm if one man will not, and there is no combination on either side, *then* the rent will be all the surplus produce over and above cost of production (including such average profits as will keep farmers in their occupation). But economists do not say that there *ought* to be this competition. As individuals they would doubtless in many cases, as in England, think that a landlord is acting in a commendable manner if he does not take all he can; and even as economists they might point out, as did Mr. Mill in the case of Ireland, that the operation of unrestricted competition had certain disadvantages.

Secondly, economists point to free competition as the means to be employed in certain circumstances to reach certain results—or rather as the means which will secure those results *if they are desired*. Thus, to take an example which no one I think will controvert in the form I state it. In a new colony, in which agriculture is for the time the most profitable occupation, *if* what the state wants is the largest possible increase of wealth in the present and near future, *then* free international competition or 'free trade' (the colony devoting itself to agriculture and exchanging its corn for the manufactures of countries which, for the time, have advantages in manufacture) will usually bring about that result. But the economist does not commend free trade or free competition absolutely: he only points to it as the means which will tend to a certain end. If the nation does not desire that end, or *does not desire it so strongly as it desires other ends*, that particular plan is no longer appropriate. Competition therefore—the unchecked pursuit of self-interest by isolated individuals—is, to the economist, like the forces of nature, in

itself neither good nor bad; and he studies its effects just as he would study the effects of non-human natural forces.

Like us, the lightning fires
  Love to have scope and play;
The stream, like us, desires
  An unimpeded way;
Like us, the Libyan wind delights to roam at large.

Streams will not curb their pride
  The just man not to entomb,
Nor lightnings go aside
  To give his virtues room;
Nor is that wind less rough that blows a good man s barge.

Nature, with equal mind,
  Sees all her sons at play;
Sees man control the wind,
  The wind sweep man away;
Allows the proudly riding and the foundering bark.

So is it with competition. It gave England, fifty years ago, cheap cloth and cheap cotton; it gave it also a huge, miserable, and discontented working population that brought it to the verge of a social revolution. It gives us to-day, in London, cheap ready-made clothes; and on the other side the sweating system.

But economists did not always hold this view. Partly owing to various practical evils around them due to governmental action, partly owing to the philosophy of the time which believed in a *law of nature* which, transcending all human institutions, worked out its beneficent results when men were left to themselves, Adam Smith, and most of his successors down to about 1848, believed not only that free competition was the best way to arrive at certain ends, not only that *if* there were free competition certain results would follow, but also that there *ought to be* free competition. Not only that if there were free competition, wages and prices would be so and so, but that they ought not to be regulated

by anything else. Even among thoughtful people of the middle class who were not manufacturers, there was a sort of idea that workmen, merely in agreeing together not to work except at a certain wage, were doing something both stupid and wicked. As has been wittily said, they felt 'as if an attempt to alter the rate of wages by combination of workmen was like an attempt to alter the weight of the air by tampering with barometers.'[1] With all reasonable economists this feeling has long ago passed away. But the result of all this insistence for almost a century upon the idea of free competition has been to create an impression in the public mind that any interference with competition is itself wicked. Even when particular classes and individuals make an exception for themselves, they are honestly inclined to believe that the rule holds good in the case of every one else. Traces of this idea, from which scientific support has long been withdrawn, are still continually cropping up—for instance, in Mr. Wallace's bill, as originally presented to the Dominion Parliament, when it proposed to declare guilty of a misdemeanour every person who made agreement with any other person for '*restricting competition* in the production, manufacture, sale, or transportation' of 'any commodity which is an object of trade'!

Recognising, then, that competition is in itself neither good nor bad, but may be either, what are the evil or beneficial features of the sugar combine, as it now exists? The first result is an increase of roughly one cent per pound in the price of standard white granulated sugar. This sugar is not much used by the working classes, who use yellow sugar instead. We probably should not err in supposing that the Ontarian bricklayer, who according to the tables of the Bureau of Industry earns about $500 a year and whose cost of living is, according to the same authority, $400, represents the poorest class of those who are regular purchasers of this sugar for family use. I am informed by a competent housewife, that with a couple of children of school

[1] Stephen's *History of Criminal Law*, iii. 211.

age a family would get on well enough with two pounds a week. The combine means to them, therefore, an increased expenditure of 100 cents a year = $1, i.e. an increase from $400 to $401, or ¼ per cent. The burden upon the skilled-artisan class would be much heavier of course than that upon classes enjoying a larger income—for the consumption of sugar by no means increases in the same proportion as income. A family of the professional class, spending $2,000 a year, and consuming the lavish amount of four pounds weekly, would find its expenditure increased by one tenth of 1 per cent.

Secondly, it has prevented some four or five wholesale grocers, who refused to join the combination, from getting rich quite so soon as they otherwise might. The Report says that 'thus establishments, which, in some cases, are the growth of half a century of toil and honourable dealing, and rich in valuable experience and public confidence, are threatened with extinction.' The evidence seems hardly to warrant this appeal to our sympathies. One of the large firms that have stood out declares that its sugar now costs it $1,000 a year more than before; while the combiners reply that it cannot prove an increase of more than $500. But it is not so much of the loss on sugar that this firm complains, as of its no longer being able to 'cut sugars' and so attract business.

This leads us to a third result and one not quite so clear on the surface. There can be no doubt that there is a tendency under unrestricted competition for businesses carried on with large capitals to drive lesser undertakings out of the field. It is unnecessary to point out why this is so, or the way in which it is taking place all around us. But, evidently, the practice of *cutting* assists this tendency in the grocery business, both wholesale and retail. A wholesale grocer with a large capital can better afford to sell sugar at a sacrifice and so to win custom than a man with a smaller capital; and the same is true in the retail trade. So far, therefore, as uniformity of prices has been secured, the average wholesale man and the

average retailer have been to some degree protected against the big man. To those who see one of the greatest dangers of modern economic development in the destruction of the trading and manufacturing middle class and the growth on its ruins of a few colossal businesses, the tendency of the combine will, in this respect, seem conservative in the best sense of the word.

Fourthly, by making it difficult to offer an attraction in cheap sugar, it has put some slight obstacle in the way of the excessive multiplication of little shops.

Fifthly, the arrangement has introduced greater steadiness in the business of wholesaler and retailer, with the result of lessening jealousy and suspicion all round. Nowadays we are very apt to worship the consumer; with but little thought of the worry and laceration of spirit, and of the vulgarisation of business, which are involved in the perpetual effort of the retailer to win custom by outselling his fellow. But the benefit does not stop with the dealer himself. I know not how the business of wholesale grocers is conducted, but I imagine they employ a few score clerks, warehousemen, porters, and carters, and some of these probably find themselves in the enjoyment of more regular and continuous employment than if their masters were still cutting one another's throats.

But I must confess, finally, that there does seem some force in the argument that though the wholesalers have not obtained too high profits as yet, the combination may possibly enable them to exact too high a price by-and-by. If *all* the wholesalers should combine, this might take place: though they would find it inexpedient to make any very considerable increase of price, as it would certainly lead to the diminution of demand in a much greater ratio. If I have spoken somewhat slightingly of Messrs. A and B in the earlier part of this paper, in the conviction that they have possibly received from others more than their due share of commiseration, I will make my apology to them by expressing the confident anticipation that they will save us by their enterprise from this contingency. Even as things are now,

it almost pays a man to import his sugar. If prices went up very little more, without any change in the existing tariff, it would become profitable.

After these criticisms it will be seen that in my opinion it is impossible wholly to condemn or wholly to praise the sugar combine. The economist will stand by, and see what takes place.

AMERICAN TRUSTS [1]

Although a subject of Her Britannic Majesty, I have, for the last few years, been entrusted with a share in the teaching work of a great American university; and, before that, I acted for some time in a like capacity in one of the universities of Canada, a country whose economic conditions present in some respects a close similarity to those of the neighbouring republic. It has accordingly been suggested that some American topic would not be inappropriate as my theme this evening; and it has even been intimated that some observations on the subject of 'Trusts,' which are now engaging so much attention on both sides of the Atlantic, would not be unwelcome to this assembly.

I cannot, indeed, profess to have myself investigated in any detail the actual working of any of the great organisations known by that name. My sources of information are the books and articles accessible to any student of economics. But to have lived for ten years in the economic and psychological atmosphere of America may perhaps enable one, in some measure, to disentangle the larger and deeper forces which are at work from the merely superficial; and American phenomena may, perhaps, gain in significance when they are compared with like movements on this side of the Atlantic. I shall limit my field by omitting from consideration combinations or monopolies of a purely commercial or speculative character, like the recent Leiter corner in

[1] [An Address at the Annual Dinner of the British Economic Association, on March 22, 1899; printed in the *Economic Journal*, June 1899.]

wheat, important as they are; and I shall confine myself to industrial combinations—combinations, that is, entered into by companies or individuals themselves engaged in production.

A dozen years ago the American public suddenly awoke to the fact that the supply of some of the commodities of commonest use had come to be controlled by a number of organisations which seemed to be able to fix prices without regard to competition. Two or three of the largest and most conspicuous had assumed the peculiar juridical form, to be described later, known as a 'Trust.' The word at once seized upon the popular imagination; it soon drove out all rivals from everyday speech, such as 'Combine;' and it has continued to be commonly used for all capitalistic combinations of a supposed monopolistic tendency, whether they take that peculiar legal form or no. The discovery of their existence led to a great outcry. A popular demand arose that the several governments of the States and of the Union should enforce what the lawyers declared to be the principles of the common law with regard to conspiracy in restraint of trade; and that, if this proved insufficient, new legislation should be enacted distinctly declaring the formation of such combinations a criminal offence. Anti-Trust laws were passed by some twelve or more State legislatures; and in 1890 by the United States Congress itself with regard to inter-state commerce, which alone falls within its powers.

In the commercial crisis of 1893 more than one of the so-called Trusts came to grief; and the dull and stagnant years which followed were not propitious to large enterprises. Moreover, the Venezuelan Message, the Silver campaign, and more recently the Cuban question, culminating in the war with Spain, gave people other things to think about. But now, in the new wave of business confidence which is passing over the country, there is a fresh movement on the part of capitalists engaged in industry towards far-reaching, all-embracing combinations. Telegraphic reports tell us on this side of the water that hardly a day passes without the formation of some new Trust; and yet it is undoubtedly the

case that, in the original and exact sense of the word, there is not to-day a single Trust in America.

For the Trust properly so called, was nothing but an easy legal mechanism for arriving at an end which could equally well, though with somewhat more difficulty, be achieved by other means. It was the invention in 1882, so it is said, of the presiding genius of the greatest of all the organisations, the Standard Oil Trust, viz. Mr. Rockefeller; and it was simply this. The shareholders of a number of joint-stock companies all handed over their stock, and with it their voting powers, to a small board of trustees, receiving in return certificates representing the amount deposited. Externally each company, or 'corporation,' retained its independent constitution; but henceforth its management was in the hands of the trustees, who acted nominally on behalf of the shareholders of that particular company, but really directed the operations of all the establishments according to a general plan.

In spite of the ability of 'corporation lawyers,' and the extreme deliberation with which the State-Attorneys and Attorneys-General set about enforcing the law, it was soon apparent that this particular form of organisation could not be maintained. It was held by the courts that, even on the principles of the common law, the several bodies of shareholders were acting *ultra vires* in handing over to trustees powers which, in the intention of their charters of incorporation, they were to exercise themselves. Besides, it might save the managers of the undertakings some annoyance to bow before the storm; and, accordingly, one after another of the great combinations declared that they had abandoned their Trust, that the several companies had regained their old independence, and that the public had nothing further to fear. But, economically, the situation in the case of most of the larger combinations is substantially unchanged; where changed at all, it is only in the direction of consolidation and amalgamation. In the case of the Standard Oil there has been no Trust since 1892; but the nine persons who once directed operations as trustees now do precisely the

same in virtue of the fact that one or other of them has, somehow or other, become the owner of a majority of shares in every one of the nominally independent companies. In other cases, notably that of the Sugar Trust, there has been an actual amalgamation of the constituent corporations in one enormous new company. In another instance, that of the Steel Rail Pool—not so close-knit an arrangement as a Trust, but aiming at the same end—the break-up of the pool, to which the new legislation in some measure contributed, has enabled one of its members, Mr. Carnegie, to swallow up or destroy many of his old Pennsylvania associates, and to dominate, though not yet to monopolise, the market by an alliance with Mr. Rockefeller, who controls the mining region of Lake Superior.[1] That is to say, the attempt to enforce the supposed common law and the invention of new penalties in obedience to popular outcry have resulted in making it impossible for a number of companies or individuals to enter into formal contracts of certain particular kinds to restrict production and fix prices. They cannot prevent either a private conversation among a number of gentlemen, or a voluntary amalgamation of businesses, or a victory of a large producer over a smaller one through the mere preponderance of capital resources. What we have to look at, therefore, in the United States is not a particular form of association, but all such capitalistic monopolies—or (where the control of supply does not amount to a monopoly) all such market-dominations—as are able so far to govern supply as to have the power of fixing prices without any immediate fear of competition, either domestic or (thanks to the tariff wall) foreign. The mere external shape of the capitalistic edifice is of very small importance.

Now it is very clear, in the first place, that such monopolies or market-dominations in the United States are

[1] It is now (May, 1899) being stated in the American journals one day and denied the next, that a 'consolidation' of 'the entire iron and steel trade' in the United States has lately been effected by the diplomacy of the Carnegie Company.

no merely temporary and ephemeral phenomena. Of course a good many attempts to secure such power have broken down sooner or later, and ruined their promoters; but, on the whole, there is a distinct tendency towards the extension either of combination or of more or less complete amalgamation of interests to more and more branches of industry, as well as toward the growing solidification of that increasing number of combinations which manage to survive. The development is, however, a good deal slower—it has more complexity, and also more inevitableness, so to speak, in its movement—than the public commonly suppose. A case in which a number of businesses, really competing against one another for a considerable period, are suddenly brought into a successful combination by the business genius of one man—such a case, I will venture to say, is almost unknown. Almost every one of the large combinations has behind it a significant history of fifteen, twenty, or even thirty years' duration; a history first of flourishing business, then of cut-throat competition, and then of depression, and finally of recuperation, and so on *da capo*; a history of alliances and understandings and agreements, made time after time, and renewed afresh after each failure. The newspapers report just now that Mr. Pierpont Morgan has secured the assent of the English stockholders of the Reading Railroad to a combination of all the eastern railroads owning coal-mines. But if he secures his object, it will be but the outcome of a tendency in anthracite coal mining which began to show itself as long ago as 1872, and of a series of attempts which have come nearer and nearer to success as the years have gone on. The student of the operation of the force of self-interest under modern conditions of production on a large scale can find no more instructive reading than the series of monographs which American economists and their pupils have devoted to the history of a number of the monopolised industries.

In the next place, the Trusts must not be looked upon as altogether exceptional or as sharply distinguished from the rest of the operations of the American business world.

There is, indeed, a vast amount of direct competition of the most old-fashioned type still to be found in the country. Putting on one side the small industries and those that have not yet passed into the factory or mill form, there are still whole departments of manufacture in which, at any rate on the surface, there appears little tendency towards combination, e.g. the whole group of textiles.[1] Nevertheless the movement towards some mitigation of the influence of competition in the determination of price is very widespread in American industry. It is one of the chief directions in which the force of self-interest, which but recently made only for individualist competition, is now making itself felt; and it takes a hundred forms, varying in durability and thoroughness. The Trusts represent but the culmination of this movement; and to isolate them, as is so often done, from the general economic environment, is to give a thoroughly false idea of their real significance.

This last consideration has a direct bearing on the question of the 'origin' or 'causes' of the 'Trust' movement. There are economists who, not content with pointing out the part which competition has hitherto played and still plays, exhibit a sort of jealous regard for its future vitality; and these are very much inclined to argue away the significance of American Trusts, and to attribute them to peculiar local political conditions. Thus one recent French observer concludes, to his own satisfaction, that Trusts have arisen in the United States because the Government of that country has 'either done too little or too much;' too little, in the control of railways, so enabling, e.g., the Standard Oil people to crush their rivals by securing preferential rates; too much, by the adoption of a protective policy which has sheltered, e.g., the Sugar Trust and the Steel Rail Pool, from foreign competition. His implication is, that monopolies will not

[1] This is no longer true of all branches of the group. According to the New York *Commercial Bulletin* for April 25, 1899, the United States Worsted Company, recently incorporated, has 'options on about thirty-five worsted yarn mills, which will absolutely control the worsted yarn industry of the country.'

arise where the Government hits the happy mean, and never strays from the narrow path. This is cold comfort, if true.

The argument as to protection has, *prima facie*, a good deal to be said for it. It is confirmed by the circumstance that precisely those combinations which have recently in Europe attracted the most attention—curiously enough, in two of the same industries as in America—the iron and sugar combinations in Austria-Hungary, have likewise been protected by a high tariff. Evidently protection has often been an important favouring and accelerating condition. But as a fundamental explanation it cannot, I am sure, satisfy any one who is acquainted with what I have ventured to call 'the economic atmosphere' of the United States.

It is a commonplace—but none the less true on that account—that the 'great industry' of modern times, so long as it is carried on under conditions of individualist competition, has certain inevitable consequences of the gravest character. When a number of separate undertakings, not only without concert, but on the contrary in rivalry one with another, are engaged in supplying commodities or services to a market difficult completely to survey and subject to fluctuation, then there are bound to be, from time to time, periods of over-production, with its consequences in depression of trade, diminution of employment, suspension of production, and destruction of capital. Crises may, it is true, be occasioned by bad harvests, by international complications, by unsatisfactory conditions of currency, and even by stock-jobbing; but, even if all these causes could be removed, crises would still be produced, as it were automatically, by the 'normal' working of the competitive system. It is also now generally recognised—American economists treating of the Railroad problem have been among the first to point this out—that this tendency to periodical crises, due to a want of coincidence between supply and demand, has been reinforced by the increasing use of fixed capital. Time was that when the profits were out, the business would die. But undertakings employing a large amount of fixed capital, of which the value would be seriously impaired or even destroyed by a

period of disuse, do not now go out of the field of competition when they cease to obtain what the economists used to call 'the average rate of profit.' They usually remain in operation for years after, and reduce their charges, if necessary to obtain business, so long as they can earn anything, however little, above prime cost, and obtain any contribution whatever towards their fixed charges. And thus competition becomes more and more acute; the agony of rate wars and 'cut prices' more protracted; the ill effects more widespread, and the recovery more slow.

All this is illustrated on a vast scale in the United States. Fifty years ago England was 'the classic home of the great industry;' to-day it is certainly America that occupies that position. The home market is far larger; it is constituted by a population living on the whole more comfortably, and able to furnish a stronger 'effective' demand; both capital and labour are more mobile; and, finally, but quite as important as any other consideration, the individualist spirit is more generally diffused and more deeply penetrating. No country ever before offered such opportunities for making a fortune to those who can manage to attract towards themselves the purchasing power of the public. Accordingly, all the phenomena resulting from competitive production on a large scale have been exhibited in America with an intensity and a reverberating publicity such as was never known before. And the Trusts are, in the main, simply an attempt to lessen and, if it may be, avert altogether the disastrous and harassing effects of cut-throat competition, after a completer experience of what that competition means than any country has ever been through before. Their formation has, in most instances, followed upon a period of over-production and consequent depression. For the nerves of the American business man have at last revolted and demanded some decently comfortable measure of stability. This, I am convinced, is the underlying cause of the movement towards combination, of which the Trusts, as I have already remarked, are but the culminating examples.

A word or two as to the effects of the Trusts. In the

case most commonly cited, that of the Standard Oil organisation, its formation has been followed *chronologically* by a pretty continuous fall in prices. Owing to improved methods of refining and of transportation, the public has obtained a very good article at a low price, while the combination has reaped enormous profits. Whether without combination prices would have fallen as low or lower, is a question upon which much has been written, but which I see no way to solve. In some other cases combination has undoubtedly been succeeded by a rise in prices; but this is as compared with previous periods when, owing to glut or rivalry, prices had fallen very low; as compared, that is, with a state of things which could not be permanent, and which itself by reaction produced the combination. Of course the Trusts do not carry on business from philanthropic motives; but the public has a greatly exaggerated idea of their power to determine prices. Their object must be to secure the largest net returns, and they are shrewd enough to see that a large sale at a low price may pay them better than a small sale at a higher price.

So far as labour is concerned, the formation of a capitalistic combination undoubtedly puts the employers in a position of advantage in the bargaining for wages; an advantage which can only be neutralised by the formation of a firm combination on the side of the employees. This is often exceedingly difficult to bring about; and some of the industrial magnates, like Mr. Carnegie, have been very successful in freeing themselves from trade-union pressure. On the other hand must be weighed the consideration that the combinations have, on the whole, increased the stability of industry: and, so far as the workmen's material condition is concerned, continuity of employment and steadiness in the rate of remuneration are really more important than temporary high wages. It may be added that, as a matter of fact, most of the greater combinations have had little trouble with their workmen.

Undoubtedly, however, the success of the combinations tends at present towards the creation of a *régime* of what

the French call *patronage*. I know of no attempt in America to bring unions of workmen into the arrangement, giving them a voice in the fixing of prices and using them as additional weapons against manufacturers who break away from the ring. There is, so far, nothing like what has been effected in that most significant and hitherto successful organisation of the Bedstead Manufacturers of Birmingham, or like what was proposed in Sir George Elliot's magnificent scheme for an English Coal Trust. But the great captains of American industry are not all of them mere money-grubbers. Many are in their way industrial statesmen; and although the business atmosphere of America is not, it must be confessed, at present very congenial to trade unionism, it is not unlikely that they will perceive by-and-by how greatly they might strengthen their position by taking their workmen into their counsels.

It might be rash to regard the present posture of affairs in America as justifying any large generalisation as to the ultimate issue of industrial development. It seems as if an effective combination were only possible between a comparatively small number of large businesses; that is, after considerable progress has already been made towards the elimination of the small producer under the operation of the ordinary forces of competition. And such combinations, as we have already seen, have sometimes been but stages towards a completer amalgamation or consolidation. Several may fairly be taken as illustrations of the teaching of Proudhon, that competition is bound to destroy competition. We might even add that, in the case of the Standard Oil monopoly, the development has already reached a point at which, on the purely economic and administrative side, there could be little objection to the Government taking over the business—if only there were a Government politically capable of the task. But, on the other hand, we may observe that many of the combinations, especially the looser confederacies known as 'pools' or 'understandings,' are clearly in the interest of the undertakings of the second rank, and restrain or hamper the greater ones in their efforts to

win trade from their competitors. They indicate, as has been well said, the existence for the time of a certain equilibrium among the contracting parties, none of which feels itself strong enough to conquer the whole field.

We may not see our way to prophesy; but yet we are bound to recognise that these combinations are 'with us' in America, and that in all probability they will continue for an indefinite period to increase in number and extent. So far as they succeed, they remove the determination of prices out of the range of competition; and the self-interest of the monopolists, though it is some protection, is yet an inadequate protection of the interests of the consumer. For the greatest net returns may be secured by fixing prices at a point considerably above what would return an adequate profit. Thus the recent legislative proposals of the Austrian Government are dictated by a belief that certain monopolies, affecting articles of large general consumption, have already lessened the taxability of the population. For a large part of the Austrian revenue is derived from indirect taxes, and the *Kartelle* by increasing prices have diminished the consumption of the taxed articles.

The removal of protection from a monopolised commodity has already been adopted as a policy by the Dominion of Canada, and it has been proposed in the United States and elsewhere. It may furnish a temporary and even necessary relief; but it will not apply to commodities not exposed to foreign competition; and it will not prevent such international combinations as that which has been negotiated, if not yet effected, between the Standard Oil Trust and the interests which control the oil fields of the Caucasus and Galicia, or that, to take another example, which seems to have been actually brought about between the English Sewing Cotton Company and the American Thread Company.

I see nothing for it but that, in countries where the monopolising movement is well under way, the Governments should assume the duty of in some way controlling prices. The principle of public determination of maximum rates and maximum dividends has already been recognised in various

countries in various directions; and it will doubtless have to be carried a good deal further. But before this can be done with any chance of tolerable success, any country which thinks of attempting it must provide itself with a fairly efficient administrative service.

Meantime, in view of contemporary conditions, I venture to think there are two duties incumbent upon the economist. One is to give more thought to the theory of monopoly, and by this I mean more than the study of monopoly as it manifests itself in the midst of a society still mainly competitive. I mean rather the anticipation and formulation, by an effort of the economic imagination, of the sort of problems which are likely to arise in a society where prices generally are no longer determined by competition. It may be a result of my own *penchant* for things mediæval; but I cannot help thinking that the economist may soon find himself confronted in modern life with some of the ideas underlying the old demand for 'just prices' and 'reasonable wages' which he has been accustomed to regard as quite out of place in political economy. When in the great coal strike of a few years ago the men demanded that 'a living wage' should be treated as a first charge, and that wages should determine prices rather than prices wages, the demand was commonly regarded as obviously foolish. But you may have noticed that the fundamental idea of the successful Birmingham combination, already referred to, is precisely 'the taking out of costs;' the idea that prices should *never* be set lower than the ordinary cost of production, including a fair profit for the *entrepreneur* and a fair wage for the *employé*. The subject, I know, is full of enormous difficulties, which every tyro in economics can set forth at a moment's notice. But I do not see how it will be possible, in future attempts on the part of the State to assign maximum prices, to avoid dealing very seriously with ideas of this kind. It will not escape the task even if it does nothing but tax the monopolies; for to know how heavy a tax can be properly imposed, it must have some notion how much profit the monopolists should be allowed to earn. Long before we reach the socialist state—

if indeed we ever reach it—the fundamental difficulty of socialism, the distribution of the social product without the aid of competition, will have, in some form or other, to be dealt with even by 'the practical politician.'

And, in the second place, it does seem to me the duty of the economist to ascertain, for the guidance of the public, what the actual conditions are in his own country in the matter of industrial organisation. A promising beginning has been made in this direction in the United States, partly owing to the immediate and burning interest of the subject, partly owing to the abundant, if somewhat uncritical, material presented by the United States' Censuses. There is some useful literature to be found in Germany on *Kartelle* and *Unternehmerverbände*, and the movement has its own journal in the Berlin 'Industrie-Zeitung.' Perhaps it is my ignorance of recent economic work in England; but I confess I should not know where to look for a systematic account of the structure of any of the great English industries of to-day. Formal combinations are probably rare; and the ill-success of the Salt Union is the standing consolation of those who believe they cannot take root in England. But informal agreements and undertakings are, I should imagine, by no means unknown;[1] and of course the attention of the inquirer, on the look-out for the weakening or elimination of competition, would not be limited to combinations. An amalgamation, like that of the Coats Company in the thread manufacture, or of the Armstrong and Whitworth engineering businesses,[2] might under propitious circumstances have much the same consequences. When we know a good deal more than we do at present about the actual facts, then we may be able to judge in some measure how rapidly the elimination of competition

[1] Since writing the above I have noticed the article by Mr. H. W. Macrosty on 'The Growth of Monopoly in British Industry,' in the *Contemporary Review* for March 1899, which might serve as a point of departure for further investigation.

[2] Or the amalgamation now (May 3, 1899) reported between Rickett, Smith, & Co. and Cory & Son, in the coal trade.

is progressing; what are the industrial conditions which retard or favour it; and, in short, how large is the problem we have on our hands. And when he can answer that question, the advice of the economist may perhaps be of some use to the statesman.

APPENDIX

I HAVE thought it best to leave the address as originally written. None of the statutes or judicial decisions of the last year have substantially affected the situation, and the process of consolidation goes steadily forward. But the economic student now has at his disposal (or will have when the volumes, at present obtainable only with difficulty, are put within the reach of the general public) a vast mass of information in the 'Preliminary Report on Trusts and Industrial Combinations, together with Testimony, Review of Evidence, Charts showing Effects on Prices, and Topical Digest,' presented by the Industrial Commission created by Act of Congress in 1898 [Fifty-Sixth Congress, First Session: House of Representatives, Doc. No. 476, Part I.: Washington, 1900]. This contains an elaborate treatise from the pen of Professor Jenks of Cornell upon the Effects of Combination on Prices, and a most useful Digest of Evidence—somewhat like that prepared for the English Labour Commission—drawn up by Professor Durand of Stanford University. It is accompanied by a volume of 'Statutes and Decisions of Federal, State, and Territorial Law,' compiled under the supervision of Professor Jenks, with a 'Digest of Corporation Laws' by the well-known legal authority, Mr. F. J. Stimson [Doc. No. 476, Part II.]. The preliminary recommendations of the Commission are directed chiefly to the safeguarding of the interests of investors; and the paucity of names of any considerable

weight among the members of the Commission will probably prevent any serious attention to their utterances. Two passages, however, may well be quoted from the Review of Evidence. One is as follows:

> Among the causes which have led to the formation of industrial combinations, most of the witnesses were of opinion that competition, so vigorous that profits of nearly all competing establishments were destroyed, is to be given first place.

The other runs thus:

> Nearly all the combinations whose representatives appeared before the Commission manifest no hostility to labour organisations, but are on the whole inclined to favour them. The Standard Oil Company believes in trade unions. The National Steel Company, the American Steel Hoop Company, the American Tin Plate Company, and the Federal Steel Company, all employ union labour largely, though not exclusively. They deal regularly with the Amalgamated Association of Iron, Steel, and Tin Workers, and pay as a rule to the non-union men wages which are substantially based upon the Amalgamated scale.
>
> Some of the witnesses were of opinion that in case of a conflict between employers and employees the large organisation would have a decided advantage . . . chiefly from the fact that, having a number of establishments in different sections of the country, it would be possible to close two or three without materially affecting the prosperity of the organisation. . . . Leaders of labour organisations have testified that they do not fear the industrial combinations on the ground that has been mentioned. . . . They are further of opinion that if the combinations are able, by virtue of their savings, to increase the profits of their industry, the labourers can perhaps by pressure maintain or increase their wages quite as readily as before the combinations were made. The testimony is practically universal that the combinations have had little or no trouble in the way of strikes.

And it may be added that Mr. Samuel Gompers, also, the President of the American Federation of Labour, has recently expressed his conviction, in his annual address to the Federation on December 11, 1899, that 'the state is not capable of preventing the development or the natural con-

centration of industry.' After the experience of the last few years he represents organised labour as, naturally enough, looking with apprehension on proposed measures to prevent combination; since the most considerable effort in that direction, the Act of Congress of 1890, has been directed with much greater effect against combinations of labour than against combinations of capital.

That the indiscriminating popular antipathy to Trusts is losing some of its force is illustrated by the language of the Trusts Plank in the Republican Platform of 1900. It repeats the sweeping language of customary denunciation:

> We condemn all conspiracies and combinations intended to restrict business, to create monopolies, to limit production, or to control prices.

It makes the usual promises of remedial legislation:

> We favour such legislation as will effectively restrain and prevent all such abuses, protect and promote competition, and secure the rights of producers, labourers, and all who are engaged in industry and commerce.

But it has the courage to preface these well-worn phrases with the following significant sentence:

> We recognise the necessity and propriety of the honest *co-operation of capital* to meet new business conditions, and especially *to extend our rapidly increasing foreign trade.*

The new formula is significant of much in the present temper of the American people.

MR. SMITH'S
NEW TRADES COMBINATION [1]

During the last seven or eight years a most significant movement has been making headway in business circles in England, especially in the Midlands, around Birmingham—a movement which has hitherto hardly attracted in this country all the attention it deserves. A certain Mr. E. J. Smith, evidently a man of original and masterful character, who had made his way up to the position of an employer through all the grades of journeyman, foreman, manager, and traveller, has managed to induce almost all the manufacturers in his own line of business, the metallic bedstead trade, to form a close combination of an altogether novel type. So successful has this 'Alliance' proved, and so persuasive has been Mr. Smith's advocacy of his plan as applicable to any industry and a blessing to all concerned, that he has been invited to organise some half a dozen others among the smaller trades on the same lines. Now every few months some fresh combination or other is launched under his auspices.

All this has not happened without a great amount of opposition from recalcitrant manufacturers, and also of sweeping and bitter criticism in the public press. The editors of the English 'Economic Review' were quick-sighted enough to perceive the possible significance of the movement.

[1] [*The New Trades Combination Movement*: its Principles, Methods, and Progress, by E. J. Smith; with an introduction by the Rev. J. Carter, M.A., Bursar of Pusey House, Oxford. (1899.) Reviewed in the *Nation*, January 18, 1900.]

Mr. Smith was nothing loth to appeal to economists, and contributed a series of articles in explanation of his plan, the first on its general principles, the others on its relation to the workmen, to the foreign competitor, and to the consumer, respectively; and it is these articles which have now been collected in a handy little volume, with an introduction by the Rev. John Carter, the able and energetic secretary of the Christian Social Union.

Mr. Smith is of opinion that the main cause of business distress in all its forms, and of the effort to reduce wages to make up for falling profits, or to ward off bankruptcy, is to be found in the temptation, to which manufacturers are exposed by the pressure of competition, to sell below cost. He asserts that, absurd as it may seem, a large number of manufacturers have in fact no definite and accurate notion of the cost of producing the articles they deal in. The first principle, therefore, on which he insists is the necessity of correctly 'taking out costs.' This is largely a matter for the accountant, though it involves several interesting questions to be referred to later. The next step is to induce all the manufacturers of a particular trade, after following certain common rules of cost-taking adjusted to the average business, to agree to fix the price of each article by adding a certain definite percentage of profit. So far there is nothing particularly new in the scheme. The difficulty has always been to hold the members of an association to the agreement: it has never seemed possible to get out of them a guarantee payment sufficiently large to make its forfeiture a serious consideration. One of the expedients to which similar combinations have had recourse in this country, namely, a compact with the transportation agencies, is impracticable in England; another, to wit, a system of discounts to buyers, is commonly inadequate. Mr. Smith's invention to overcome the difficulty is nothing more or less than an open and avowed coalition with the workmen in the trade. He insists that where the men are not already organised they shall be formed into a union, and that the masters shall engage to employ no non-unionists, in return for the agreement

of the union to work for no employer not belonging to the Alliance. Accordingly, a manufacturer who breaks away from the Alliance has to reckon, at the very outset, with a strike of his *employés*.

The assistance of the men is not obtained for nothing. The bargain between the two associations of employers and employed contains elaborate provisions for a bonus on wages in proportion to an increase in prices, and for a Joint Conciliation Board to settle all possible matters of dispute. According to a late Lord Mayor of Birmingham, the increase in remuneration has amounted in the bedstead trade to as much as 25 per cent. The general results have been thus summed up in a characteristic speech by Mr. Joseph Chamberlain:

> In a trade in which every one, whether workman or employer, was dissatisfied, he has brought contentment. Wages, I believe, have been increased, profits have become larger, and, curious to relate, the demand and the production have increased at the same time. This experiment, I believe, is capable of great development. I understood, when I was last in Bradford, that a great trade in that city has agreed to adopt the principles upon which Mr. Smith has secured success. . . . I am always glad that a new light should proceed from Birmingham.

Even the Bedstead Alliance, however, is not yet out of the woods. It is true that the outcry against it would seem to have proceeded, not from the general public, but from the ironmongers and other middlemen who have hitherto been able to play off one manufacturer against another. For months there has been talk of the establishment of an opposition factory at Antwerp; but it is probably only talk. Yet it would be strange if a neighbourhood so characterised by individual initiative as the Midlands submitted without a murmur to so singularly complete a system of regulation. And as it is, two manufacturers, one in Birmingham and the other near Manchester, were holding out at the date of our last advices.

Without speculating as to the distant future, it may be

recognised that the new movement has hitherto enjoyed a very considerable measure of prosperity. Moreover, no one can have moved in English business circles of late, especially in Yorkshire and Lancashire, without realising that combination is in the air. And as there are many masters who really value trade-unionism, and still more who feel they cannot get rid of it, it is very probable indeed that the early decades of the coming century will witness in England a whole series of attempts to create what may be called a vertical organisation of the industrial field—to harmonise and formally associate all the interests in particular industries, from top to bottom, in the face of the rest of the world. We see no reason to question Mr. Smith's genuine regard for social welfare, and especially for the interests of the workmen; we are ready to allow that the consumers affected by his alliances have so far suffered inappreciably: but the plan is so full of potentialities that he must be patient with us if we insist on its weak point.

That weak point is the interest of the consumer. Mr. Smith is perfectly right in saying that the older school of economists paid too exclusive an attention to the consumer; he is right in urging that the workmen are themselves consumers. What is even more to the point, he is justified in his contention that in unrestricted competition there is no necessary safeguard for the consumer, inasmuch as recent experience goes to show that competition itself tends to the creation of monopoly. But the moral of all this is neither that the consumer can be disregarded, nor that the alliance plan is to be condemned. It is rather that the public should be given a good deal more definite information than they have yet received as to the details of the mechanism. What is the way in which the consumer tends to be protected under competitive conditions? It is that when the profits of a particular occupation are noticeably higher than in other industries, new capital and even new men are likely to be drawn into it; and if prices still continue too high, over-production will ensue, and prices at last fall. This is cold comfort in the case of those industries in which only a large capital

finds an opening, and much of that is necessarily 'fixed;' but with the Birmingham trades, where businesses are still comparatively small, where there is a great deal of enterprise and money always on the watch for fresh opportunities, and where exceptional men can still rise from the ranks, it is a solid satisfaction. Will not Mr. Smith convince us of the persistence of this salutary check on excessive prices, in the bedstead trade for instance, by telling us the exact financial conditions of membership in his Alliance? Is it easy for a new man to enter the association? In order that the equalising forces of individual enterprise should work at all rapidly, it must be possible to find out what profit is actually being made in the several trades. Will not Mr. Smith tell us what is the 'fair interest' which must, in his scheme, be reckoned among costs of production? Will he not tell us how he reckons the 'wages of management' which are similarly counted in? Will he not say what is the profit the Alliance adds to the production-cost of each article? As a bedstead-maker, Mr. Smith may hesitate to satisfy our curiosity; as a social reformer, we are convinced it would be his best policy in the long run. Certainly, if combinations continue to flourish, publicity of accounts will be the only alternative to State interference; and if it is not voluntary, it will be compulsory.

CO-OPERATIVE PRODUCTION IN ENGLAND[1]

The prospects of co-operative production, in the only sense which to many of us seemed worthy of the epithet, were gloomy indeed when I first came in contact with the co-operative movement at the Oxford Congress in 1882. The undertakings founded by F. D. Maurice and his group of Christian Socialists had long ago disappeared; the co-operative cotton-mills of Lancashire had become mere joint-stock companies; the Wholesale Society, resting upon the support of hundreds of retail stores, and establishing one factory after another on completely 'capitalistic' lines, seemed to be carrying all before it; and enthusiasts like Hughes, Vansittart Neale, and Greening, protest as they might at each successive Congress, were apparently voices crying in the wilderness. It seemed but too evident that the self-employing workshop was an impossibility in the midst of modern industrial conditions; and very soon Miss Beatrice Potter (Mrs. Sidney Webb) came forward with her brilliantly written book to persuade us that it was not only impracticable, but also undesirable. Production carried on by the Wholesale Society, even though it gave its workers a share neither in profits nor in management, was really more democratic, it was urged, than when engaged in by independent groups of workmen; because it was controlled in the last resort by the great body of consumers in the distributive stores, to whom also fell ultimately all the profits. As if to confirm

[1] [A letter from London, dated August 15, 1899, printed in the *Nation*, No. 1785, September 1899.]

this argument, most of the little ventures set on foot about this time by ardent idealists (the shirtmakers in London are a case in point) came to grief after a brief period of ineffectual struggle.

Coming back to England in 1898, one of the most unexpected phenomena that confronted me was the greatly changed position in the co-operative world of co-operative production of the independent type. I had known that a new and convenient term had meantime been invented, viz., 'Labour Co-partnership;' a term wide enough to include even profit-sharing businesses still financed by individual employers. I knew, also, that a new propagandist society, the 'Labour Association,' had been founded, with a very active secretary in the person of Mr. Henry Vivian. But what I was not prepared to find was a considerable and increasing number of really thriving productive societies, with a capital of more than two and a half million dollars, and selling goods in the year 1898 to a value of more than four and a half million dollars.

During the present week (August 14 to 19), the co-operators of Great Britain are holding their annual festival at the Crystal Palace; and the Labour Association has taken the opportunity to arrange for an exhibit there of the products of labour co-partnership undertakings. Though the number of stalls is not large, no one can wander among them and converse with the men in charge without being greatly impressed. There is, of course, the old ardent co-operative faith which has complete confidence in its power of moving mountains; but this is no longer pathetic, for all around are the evidences of actual prosperity. The 'literature' most liberally provided takes the convincing form of balance-sheets.

The movement is certainly large enough to engage our respectful attention. But the first thing one has to do is to discriminate; lump statistics are quite valueless in a matter of this kind. One must begin by putting on one side the various flourishing farmers' societies in Ireland for obtaining supplies or marketing produce. They are exceedingly

interesting, and deserve an article to themselves; but they cast no light on *industrial* co-operation. Then we must put on one side the Scotch co-partnership undertakings, which are mainly organisations of consumers that allow a bonus to the workpeople in their factories. And finally, when we come to England, we must observe that by far the greater number of the flourishing societies are to be found in the Midlands, and that most of them are in Leicestershire and Northamptonshire, and are concerned with the manufacture of boots, hosiery, and ready-made clothing. The two typical towns are Leicester and Kettering. The latter, with its great co-operative store and its five thriving co-partnership businesses for the manufacture of boots, clothing, and corsets, and also for undertaking building contracts, will for some time be the worthy Mecca of the co-operative world.

What, then, is the secret of their success so far? Or is there no secret? Were the critics of the older productive movement altogether wrong, and did it simply need greater intelligence and perseverance on the part of the workmen to succeed? The answer is, I think, this: the older productive societies thought to find their market among the general public; the newer find 90 per cent. or more of their market within the co-operative world, i.e. in the 'distributive' stores. They have appealed, and not in vain, to the co-operative spirit, to co-operative 'loyalty:' and had there been nothing else to commend them than their co-operative character, they would almost certainly have secured some trade, especially as they attempted to manufacture only staple articles for which there was a steady popular demand. But they have obtained a much greater trade than mere 'loyalty' would have given them, owing to certain striking elements in their constitution. They have provided the distributive societies which had larger sums of money (their members' savings) in their hands than they knew what to do with, with an attractive field of investment; and, having invested, mere self-interest will induce the distributive societies to buy as largely as they can in order to insure the payment of their interest.

And not interest only. The newer productive societies are distinguished from the old by their more businesslike attitude, alike towards capital and towards the consumer. The older societies aimed at putting together their own capital; if they were compelled to obtain capital from outside, they thought they offered enough when they promised a certain fixed interest. The new societies usually obtain a great deal of capital from outside; and, recognising that capital needs something more than an 'average interest' to induce it to run risks, they offer, over and above an interest of five per cent. (which is a great deal to begin with), a bonus on capital dependent on profits. And as to the consumer (who is usually in the first instance a distributive store), they allure him by the device which the universal store practice suggests, i.e. by offering him a bonus on purchases. On the side of the productive society, it may be noticed, trade with co-operative stores has the two great further advantages, that it is pretty steady all the year round and that it leads to no bad debts.

The conclusion, therefore, which is borne in upon the observer from every side, is the absolute dependence of the new productive movement on the existence of a very large ready-made market in the co-operative retail stores. This is so evident that I am surprised it has not impressed certain American spectators more forcibly than it seems to have done. To found on the example of England an exhortation to American workmen to set up co-operative workshops *before* their market is ready is, in my opinion, little short of criminal.

And the English movement itself will find itself face to face with grave difficulties as it grows out of its first stage of self-sacrificing ardour. Already, in most of the larger societies, the amount of capital contributed by the stores in the form of shares is much greater than that contributed by the workers. Thus, in the Leicester Hosiery Society, out of a share capital of some £150,000, only about £15,000 are owned by the workers, and three-fourths of the rest belong to retail societies. Probably the workman's 'bonus on

labour' is safe enough; but it is very doubtful whether the workers will long retain a preponderating voice in the election of committee and managers, if they provide the smaller part of the capital. And if they do not, there is nothing in the bonus, or in the right of electing two or three committeemen to be outvoted on the board, to maintain the feeling of 'self-employment' in the minds of the workmen. There are signs that the leaders are becoming aware of the dangers ahead. They are compelling the workers to become shareholders by withholding the bonus on wages until it reaches the amount requisite for a share; and they are paying off those *individual* shareholders who are not workers. But if they are to carry on business on a large scale, there seems no prospect that they will be able to dispense with the shareholding *societies*. They can neither provide an adequate capital of their own, nor dare to offend their best customers.

Moreover, the point is being neared at which productive societies will begin to compete among themselves. Hitherto the co-operative market has been so large that it could easily furnish trade both for the factories of the Wholesale and for all the independent societies set up in opposition to it. But already the travellers (or drummers) of the boot-making societies are bidding against one another. Mr. Maddison, the very able labour member of Parliament who is President of the Labour Association, does not seem to view the prospect with any alarm. In his reaction against the 'centralising' and 'monopolising' policy of the Wholesale, he uses language which sounds unusual in a co-operator, and would have perplexed both Owen and Maurice. He relies on 'the free play of economic forces;' he regards 'the horror of what is called competition' as 'groundless;' and he would leave the number of productive societies to 'natural selection.' I am not here concerned with the criticism of either ideal—of either 'centralisation' or 'decentralisation.' But it may be safely predicted that the increase of competing societies will add increasing cogency to the arguments of the adherents of the Wholesale, and, what is more to the point,

tend to a fall in wages and a loss of bonus on the part of the workpeople.

As it is, the larger productive societies of the new type are by no means so sharply distinguishable from the Wholesale as the enthusiasts for labour co-partnership might lead one to suppose. They are in the main themselves federations of distributive societies. The Wholesale has but to give its employees a bonus on labour, however small, and a share in the management, however nominal, and it becomes a 'labour co-partnership' society also. This being so, the time has come for the Labour Association, not to slacken in its propaganda, but to add to its assertion of the principle of labour co-partnership some more precise analysis of the nature and extent of that co-partnership in the societies already established.

THE ECONOMIC ATMOSPHERE OF AMERICA [1]

The longer I have lived in America the more it has been borne in upon me that most of the social difficulties which confront the observer of industrial conditions in that country are little more than simple deductions from a few fundamental data of character and temperament in the American people. The purpose of this paper is to attempt to set these forth, with some of their causes.

The main stock of the American nation—the native population of English descent, and such of the first, second, or third generation of recent Irish and German and Scandinavian origin as have been thoroughly Americanised—are the most individualistic people that have ever lived on the earth, with an individualism which runs through every possible degree and combination, from manly independence and quick-witted originality to an utterly impracticable idealism on the one side, and an undisciplined restiveness and childish self-satisfaction on the other. This is the atmosphere we all breathe; the environment in which all action takes place; the fundamental fact for the economist. 'Individualism' has come to have a bad name nowadays, perhaps deservedly; but I do not now use it necessarily in a bad sense at all. If any one can give me a better term for that self-reliance which may be the highest wisdom or the

[1] [A lecture delivered before the Christian Social Union in the Hall of Lincoln College, Oxford, on March 8, 1899; and at the London School of Economics on May 8, 1899.]

deepest folly, for that tendency to dispense with or disregard external control which may, according to circumstances, be a duty or a sin, I will gladly take it. Meanwhile the hard-worked 'individualism' has to serve our purpose. And for any further judgment upon it, I will content myself with the nursery rhyme:

> When it is good, it is very very good,
> But when it is bad, it is *horrid.*

Let me also repeat it the other way for fear of misconception:

> When it is bad it is horrid,
> But when it is good, it is *very very* good.

Into the historical sources of this spirit I cannot fully enter. The circumstances of the Puritan migration to New England; the Puritan theology, with its emphasis on the individual soul and its low estimate of external means of grace; long separation, during the colonial and provincial periods, from the centres of culture; the circumstance that, as feudalism was not transplanted to the New World, there was no need for the strong arm of a central power to destroy it, as in Europe; these are the evident 'origins' of 'the American spirit.' We may, however, easily go too far in ascribing to pre-revolutionary New England and New York, ideas and habits of social equality; we must not fail to observe that such individualistic tendencies as there were, were greatly strengthened, or rather their operation was largely freed from check, by the expulsion of the loyalists who refused to support the new republican government. They represented the majority of the propertied class, the conservative class in the country; that element of the population in which regard for authority and tradition, and the habits of guiding and governing, were most strongly implanted. The essayist who philosophises on the effect of forcible expulsions of valuable elements from a state, might profitably add to the well-worn cases of the Moors of Spain and the Huguenots of France this of the United Empire

Loyalists.[1] The new state needed a written Constitution; and a constitution drawn up at the end of the eighteenth century, under the influence of the social philosophy of Locke and the Physiocrats, could not fail to be individualistic. The American Constitution is accordingly a classical document of individualism. What is more, it has profoundly influenced the thoughts of the American people; it is learnt by heart in school with the Declaration of Independence to explain it; it is a final authority for the Supreme Court; it has been imitated by the constitutions of the several States; and until recently most Americans regarded it as an evident expression of undeniable political wisdom.[2] And then came two new and vast forces: the immigration of millions of Irish and Germans, and the opening up of the West. Given human nature and the institution of private property, I do not think even the English government of Ireland was so bad as it has sometimes been painted; still it was natural enough that to the Irish immigrant 'law and order' should mean absentee landlords, insecurity of tenure, and the constabulary. In the same

[1] Channing's *Students' History*, p. 225, refers cautiously to 'some students who are inclined to think that some of the evils which beset the nation in the course of the next few years were owing to the loss of this conservative element in its population.'

[2] The individualistic character of the Constitution is shown rather by the spirit of the document as a whole than by any express provision. According to 'the doctrine laid down by Chief Justice Marshall and on which the courts have constantly since proceeded,' 'every power alleged to be vested in the national government or any organ thereof must be affirmatively shown to have been granted. There is no presumption in favour of the existence of a power; on the contrary, the burden of proof lies on those who assert its existence to point out something in the Constitution which, either expressly or by necessary implication, confers it' (Bryce, *American Commonwealth*, ch. xxxiii.). It may be worth while to quote the well-known language of the Declaration of Independence: 'We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are Life, Liberty, and the pursuit of Happiness. That, to secure these rights, Governments are instituted among Men.'

way I am inclined to think the Prussian bureaucracy one of the noblest creations in the history of civilisation; still it was natural that the German immigrant should be pretty tired of the 'Obrigkeit,' and 'streng verboten.' Even more influential was the movement westward. Hundreds of thousands of men faced the wilderness alone; to do the best they could by themselves, or starve. As it happened, it was not a country, as some countries have been, in which the settler was obliged to rely on the arm of the State; the physical difficulties were not usually insurmountable by the separate family. But the process called forth self-reliance; a strength which if ignorant, and ill-mannered because ignorant, was still effective. This has set the tone in the states of the west: in the nearer west, when manufactures began to spring up, as in Ohio and Illinois, it was naturally transferred from agriculture to industry; and the industrialists of the west, by example and personal intercourse, have affected the industrialists of the east. And the process is not yet over. Within the last decade a state so entirely agricultural as Indiana has hitherto been, has begun to develop into a seat of mining and manufacture.[1]

So much for certain historical and general forces. Let us now come more particularly to the *entrepreneur* class, the men of business enterprise, and look at the economic influences playing upon them to-day. To simplify matters, let us look at the manufacturers only; though similar things might be said of the transportation interests. To the American manufacturer to-day, protected from outside competition by a tariff wall, and adequately served by railroads, the United States offers such a market as never was before. Whatever the cause may be, the fact remains that there is a vast population, living in greater comfort than ever any equally large population before, desirous to house and clothe and feed themselves well, and able to pay for what they demand—able, that is to say, millions of them, when prices are high; able, millions more, with every fall in price.

[1] Turner, in *Atlantic Monthly*, lxxix. 438.

For the manufacturer who can produce some article of popular demand, say stoves or carpets or clocks, either just a little cheaper or just a little more attractive than his competitors, there is a fortune waiting. The prize was never so big or so evident. Hence *mass production* has been carried to a very high point.

Every successful business manager aims at lowering the cost of production, not commonly by directly lowering wages—he is usually too shrewd to do this and he usually realises that the gain would be too petty—but by devices for saving labour, for substituting machinery for handwork and, as far as may be, for brain-work also. New machinery, for instance in the textile business, is introduced with far greater promptitude than in England; mills and factories get antiquated and have to be restocked with improved machinery in a much shorter period. Many and many a manufacturer puts in quite new machinery knowing perfectly well that he will have to repeat the operation in ten years. Of course very many fail; but the successful man must turn over his capital very quickly, must reap within a short time a profit sufficient for the replacement with interest of all his plant. And as scores of others in the industry are doing the same, the competition is a good deal keener even than in Europe—competition not only in introducing new machinery and in cutting down prices, but in advertising, and in the bargaining with railroads for rates of transportation, and with merchants or producers for raw materials. Such severe competition is now more and more working itself out in the direction of combination; but there is still a very great deal of it, and the temper it created remains even when the struggle in its old form has become a thing of the past. The successful business man feels that an enormous amount—we can pardon him if he thinks all—of the success of the undertaking is due to *his* brains; the labourer's claim for consideration he can hardly be patient with; to him it seems that the labourer ought rather to be thankful for the chance of employment; and anything like an attempt to hamper or control him in the conduct of his business arouses

a genuine moral indignation. Of course a strike for higher wages usually does hamper a man in the control of his business, and a manufacturer is apt to regard a strike as a general regards a mutiny of his troops in face of the enemy. The large industrialists, like Mr. Pullman (a man who really represents some of the finer and higher qualities of the best Americans), when confronted by a great strike, invariably say that a *principle* is involved—that only *they* can survey the field of competition with sufficient knowledge to tell what they can afford to pay ; that they cannot be expected to show their books to the public ; and that, anyhow, they propose to 'manage their business as they think fit, and not to submit to dictation.' All this is very familiar in England ; but I am sure it is never said with such an air of common-sense rectitude, and with so complete a support from business and professional public opinion, as in the United States—and so excusably under the circumstances. Let us add that the successful business man cannot look forward in America to securing a baronetcy, buying a country estate, founding a family, and ending his days with the rustics bobbing to him and a Debrett on the study table. He gets his reward mainly in the sense of *power* ; and to weaken his autocratic control ever so little over his undertaking is to take from him a sensible part of his only reward.

All this would be true if we could confine our attention only to the older parts of the country, or if the whole of the country suitable for industry had already been filled up. But it is not. The history of the factory system in New England is but two or three decades shorter than its history in England ; and we might there look for a stable and firmly settled organisation. But even New England is now called upon to struggle for the retention of one of its staple manufactures, cotton weaving and spinning, against the south, into which capital is now beginning to flow, and which in the proximity of the raw material has a positive advantage, and in the cheapness of negro labour has an apparent advantage over the north. Here is a vast economic transition, as it would seem, about to work itself out : the exact

outcome no man can prophesy, but it is pretty sure to profoundly affect social conditions both in the south and in the north. Is it to be wondered at that the captains of industry in the north should demand a free hand? The recent widespread strike in the cotton industry of New England was caused by the announcement of the employers that they must reduce wages to meet southern competition. The workpeople *may* have been justified in striking, even if the assertions of the employers were accurate; but they were beaten, and beaten to some extent because the public opinion of New England shared the employers' alarm.[1]

In most other cases, perhaps, the new competitor has not any such marked natural advantages as in the case of the cotton industry of the south. But many an industry in many a state has to meet the competition of rivals who enjoy *equally good* natural opportunities, but are simply ten or twenty years behind them in starting, and are aided in overcoming even this disadvantage by remissions of taxation

[1] The Southern Railway has recently issued a circular giving a list of cotton mills along its line, and the number of looms and spindles in each. According to this list the equipment on January 1, 1899, consisted of 74,953 looms and 2,846,168 spindles; while on January 1, 1900, the numbers had risen to 92,010 and 3,268,218 respectively. The circular contains the following significant paragraph: 'The proximity of this section to the raw cotton, supply of efficient, intelligent, and *low-priced labour*, *longer working hours*, *liberal labour laws*, &c., all combine to make textile manufacturing successful.' With this may be compared a passage in a review of Mrs. Robinson's *Loom and Spindle, or Life among the early Mill Girls* (of Lowell), 1898, in the *Nation* of January 5, 1899: 'If the New England factories hold their own at all now, it is because they have the "right of way"—the possession of the market, the control of abundance of skilled and highly trained labour, the momentum of enormous capital, the inertia of heavy investments in costly plants. The Southern mills have, in many cases, coal on the spot at one-third the price in Lowell, and cotton on the spot, the fibre of which remains one 'grade' higher than after packing and transportation to the North. They have labourers who are at present glad to work longer hours for lower wages; they are less trammelled by Legislatures and the meddling of guilds. Who can fight long against the bounty and the favouritism of nature? The New Hampshire farms no longer raise wheat; the New England factories may have to abandon cotton.'

for a term of years by municipal authorities who seek to encourage local manufactures. This is particularly true with the group of industries which grow up out of the presence of iron. Thirty years ago Ohio began to compete with Pennsylvania; now Indiana and Minnesota are beginning to compete with Ohio. Similarly the coalfields of Missouri are entering into competition with those of Pennsylvania. The new businesses naturally find part of their demand in the immediate neighbourhood as it begins to fill up; but for staple articles of general consumption they aim from the first at the whole American market. And here the railroad plays its usual part in minimising the disadvantage of distance. Terminal expenses—the cost of getting the goods on and off the cars—are usually so large when compared with haulage, that on articles sent in large quantities it often makes very little difference whether they are forwarded a hundred miles or a thousand. And so both the new man in a new locality and the long-established man in an older state are very conscious of the reality of the competitive struggle, and very likely to believe that it is on *their* business skill and enterprise that the prosperity of their town depends.

There is an antithesis which some American economists are fond of applying to Europe and America—the antithesis between a static and a dynamic condition. The terms are not perhaps very well chosen, and there are, of course, no sharp or absolute contrasts in this regard between England and the United States; it is simply a matter of degree. But with this caution it may be permitted one to say that the United States is in a far more dynamic condition than England: methods of industry are more rapidly changing and industry is continually moving into new territory. But in a highly dynamic society the functions of the business *entrepreneur* approach their maximum of importance; and the more important the function of the *entrepreneur* the more highly developed, inevitably, is industrial individualism.

We have not yet done with the influence of environment on the *entrepreneur*. All that we have so far said would have

been true with an entirely homogeneous population. But since the forties a great stream of foreign immigration has been pouring in; first Irish, then Irish and German, then Irish, German, French, Canadian, and Scandinavian, and of late years all the foregoing, though in lessening streams, together with crowds of Italians, Greeks, Hungarians, Bohemians, and Russian, or rather Polish, Jews. These foreigners have long done and still do almost all the unskilled or but slightly skilled work there is to do in the mills and forges and mines of America; in a real sense they constitute 'the labouring class.' Many of the Scandinavians and Germans, it is true, have settled upon the land; but the Italians are the navvies of the Eastern states; the Hungarians and Bohemians have gone largely into the mines of Pennsylvania; and the Russian Jews are still chiefly in the sweat-shops of New York. But of all these waves the Irish who came first have been the most considerable, and the most disturbing to the older American conditions. They flooded the textile mills of New England and soon took the place of the native hands. Up to that time there had existed a very general feeling of personal equality between employers and operatives: the weavers and spinners came from New England farms; they were neat in dress and careful in speech. Those were the halcyon days when the girls of the Lowell mills conducted their own magazine and wrote not despicable poetry for it, and Dickens was so charmed with what he saw. But now the natives gradually disappeared; not that they were underbid by the new-comers, but simply because they would not work side by side with persons whom they thought inferior in habits of life. Remember that during this time production was rapidly increasing, and the ablest of the native male employees could and commonly did become overseers and managers. Manual labour very generally ceased to be respectable. Of course in time a few of the Irish prospered and became employers, but very few have become considerable employers; and in New England, where the cotton and woollen corporations (or companies) are largely family affairs, the large employers have remained

exclusively native American. They were cut off from the first generation of their Irish hands by differences of culture and of temperament; and though, with the Americanisation of the children, these differences have somewhat diminished, there remains the great barrier of religion. The employers more or less unconsciously felt that they had to do with a rather shiftless set of workpeople, whom they were justified, by their own possession of what are called Anglo-Saxon virtues and by their own superior religious enlightenment, in regarding as irrational. When it came to a dispute, the Celtic emotionalism, the Celtic imagination, the Celtic rhetoric, were all distasteful to them. As time went on, the Irish improved in their dress and in the neatness of their homes: but now came into the mills of New England, especially of New Hampshire, the immigration of French Canadians, and the whole process of amelioration had to begin over again. The two races, Irish and French, are to be found now in varying proportions from place to place; in some manufacturing towns the Canadians predominate, and on the platform of the railway station of Concord, New Hampshire, crowded with hundreds of people one Saturday evening, I could hardly hear a word of English Here the differences of temperament are not perhaps so great, but there is the new barrier to sympathy in the presence of a different language. The manufacturing towns of New England present extreme cases; but everywhere now the great majority of the manual labouring class, in industry and in mines, are foreign or of foreign parentage. The army of labour is not unlike a Sepoy regiment, except that even the non-commissioned officers—the foremen and superior clerks—are of the economically superior race, or of the second generation of the foreign element. How enormously these racial differences must affect the relations of the employing and employed classes must be very evident.

Now turn to the employees, and look at some of the traits with which *they* seem to be marked. What we said some time ago about the individualist spirit, the tendency to act for and by oneself, the dislike to act in concert with or

in subordination to others, applies of course in a measure to them also, so far as they have been of native stock or have been thoroughly Americanised. And this spirit was encouraged, long after the middle of the present century, by the economic conditions. It was easier, speaking in general terms, for an able or a particularly thrifty (or selfish) man to rise in life than it was in England, and those who were discontented with the life of the factory could often manage to go West and become farmers, if they had the necessary physical strength and agricultural aptitude. It is, of course, a gross exaggeration to say that every man could have a farm if he pleased; still in this way, and by rising to higher industrial positions, many men left the ranks of manual labour who in an older country would have become its natural leaders. Hence the slower growth of class feeling, the weaker *esprit de corps* of such trade unions as were formed down to the seventies, and the poorer calibre of their officials. Unionism has evidently grown in strength during the last twenty years; and this has been the result of several concomitant causes: (1) the growing capitalisation of business, making it harder for workmen to rise into the position of employers, and so keeping a larger proportion of men in the ranks of labour; (2) the complete exhaustion of the supply of free land; (3) the advent of many English workmen steeped in the traditions of English unionism; (4) the Celtic clannishness of the workpeople of Irish origin. It needs but a glance down the list of presidents and secretaries of the leading American unions to see how large is the Hibernian element. The Germans furnish the next largest contingent, but the Irish preponderate. And the Celtic temperament, warm-hearted, self-sacrificing, splendidly buoyant as it is, is not perhaps the best suited for the humdrum business of keeping a labour organisation alive when there is nothing stirring to be done.

There is one feature of 'the American spirit,' which the history of labour organisations abundantly illustrates, and which one might be inclined to attribute to the Celtic influence, were it not that it is abundantly present in other than

labour ranks. I cannot think of any term for it but one somewhat disrespectful, *megalomania*. Probably it is the mere physical size of the country which makes so many Americans so much in love with bigness. Certain it is that hardly does any useful idea get started in any place than, instead of being content to try it there quietly, and, if it succeeds, then to introduce it gradually elsewhere, there is at once a demand that the same movement or reform or what not should be tried everywhere. The different local groups are at once organised as an American Society for this, that, or the other, with its annual congress and its organ in the press. When ideas 'catch on,' as the phrase goes, they are apt to spread like wildfire, and to disappear with equal rapidity when enthusiasm begins to be baulked by the paucity of results. I have seen this in the realm of the higher education, and in the ardours of cultivated middle-class ladies—perhaps it would be safer for me not to particularise. Exactly the same is true of labour movements. The Patrons of Husbandry or Grangers, the Knights of Labour, the Henry George propaganda; all have grown with extraordinary rapidity and died down almost as fast. The most striking example is that of the order of Knights of Labour, which twelve years ago seemed about to take over the government of the United States, and now is an almost negligible quantity. The moral is on the surface and I will not labour it. The effect of such phenomena on the elderly hard-headed American capitalist is what we might expect. 'I have known four and twenty leaders of revolt,' he might say with Browning's Legate. The news that the numbers in this or that new labour organisation are running up into the hundreds of thousands does not affect him as it might his Yorkshire or Lancashire rival. He has been through it all before. It is the most encouraging feature of the last few years that the more slowly growing strength of the Federation of Labour has meant the diffusion among the working classes of a type of trade unionism more nearly like that of England—not so idealistic as earlier movements, a little narrow perhaps, but much more substantial so far as it goes.

These, then, are some of the larger economic forces at work affecting both employers and employed; this is, so to speak, the economic atmosphere in which they all live. It will be worth while to look, though even more hastily, at some of the characteristics of the *political* environment. In every society of the modern type, industry and government must inevitably come in contact with one another; and even if, by the adoption of a *laissez-faire* policy for the state, the number of these points is severely restricted, it cannot be a matter of indifference to the classes engaged in industry what kind of government they have to deal with.

There has been a disposition of late years in certain circles in England to look with favour upon those features of the American political system wherein it differs most markedly from our own—such as the existence of a written constitution, which it is very difficult to change, or the fixed term of executive office. We are not all of us any longer quite content with Bagehot's classic exposition of the difference between the two systems, which summed up so unmistakably in favour of the British. But now I would remind you that, whatever Bagehot may have left unsaid about the American political system, what he actually said of it was and is quite true, and of the utmost significance in the present connection. Bagehot pointed out, you will remember, that the separation between the executive and the legislative had the effect of dividing, and therefore of weakening the sense of, political responsibility. This would be true if there were but one executive magistrate and one legislative chamber, and these acting together were legally omnipotent. But in an American State there is first of all the written Constitution, interpreted by the Supreme Court of the particular state; then there is the state Executive; then there are two chambers of the Legislature, each independent of the other, and neither necessarily of the same political party as the head of the executive; and on top of all this, for all that concerns inter-state commerce, there are the Federal Constitution, Federal Legislation, the Federal Supreme Court and Circuit Courts, the Federal Executive,

and the Federal Congress with its two equally powerful houses. The result of the English system we are all familiar with. The Ministry of the day is accountable for everything; and it may lose office dramatically any evening over wellnigh anything, large or small, from old-age pensions to the flash-point of petroleum. And this not only strengthens the sense of responsibility, but it makes Parliament the focus of public interest on almost every conceivable topic. Whether it be a widespread strike in a great industry, or a letter-sorter dismissed in a remote Scotch post-office, some occupant of the Ministerial front bench has to get up and say something—or nothing—about it. This, of course, is apt to seem very comic; but it certainly has some advantages when compared with a system under which it is almost impossible to fix responsibility anywhere. There is some large problem, let us say, which requires to be tackled; for instance, the reform of the banking system. Whose particular business is it to worry himself about it? or who can look forward to a political career so long and of such a kind that it is likely to matter what attitude he adopts towards it? Or in a particular state there is an agitation for some extravagant legislation: Why should not the Legislature pass it? Most of the members are not likely to be returned again in any case; then perhaps the governor will refuse to assent, and he will have to bear all the odium. But why should not the governor give his assent? He has probably got to the highest office he can hope to reach, and he probably will not be in power when the act has to be enforced; and then, perhaps, the law courts will declare the act unconstitutional, and *they* will have to bear all the odium. We cannot wonder that in some states it is becoming increasingly the practice to pass statutes with the anticipation that they will be declared unconstitutional.

And now another feature of the American situation. It is a commonplace to say that while in Germany the government gets most of the best brains, and industry and commerce relatively few, in America it is industry and commerce that are most attractive. So far as mechanical progress in the production of wealth is concerned, the advantage is evidently

on the side of America. But when the state really has a part to play in relation to industry, it cannot be satisfactory that its representatives should almost constantly be of inferior mental calibre. Some causes of this are obvious—especially 'the spoils system.' But there are many other concurrent causes. Let me make the difficulty concrete by pointing to one particular set of cases. To enforce the laws which are constantly being passed by the Federal Legislature and by the State Legislatures with regard to business enterprises (for our present purpose it is indifferent whether the law is what I regard as unwise, e.g. prohibiting combinations of the nature of trusts, or what I regard as wise, e.g. prohibiting truck), the Federal Government and the several states need the services of first-class lawyers. But the capitalist companies can and do offer incomparably higher remuneration to standing counsel than are provided by official salaries. The most highly paid 'professional' men in the United States are what are called 'corporation lawyers,' i.e. company lawyers, and their business in large measure consists in devising forms of contract which will secure the business ends of their employers without violating the law. There is a phrase about driving a coach and four through an Act of Parliament: to drive an express train through an Act of Congress is a most reputable and highly recompensed occupation in New York. Suppose either the United States, or, still more cheerful to contemplate, one of the individual states, secures a first-rate lawyer as its Attorney. Why should he be energetic in enforcing a particular law that affects the business corporations? Probably he honestly thinks the statute is a piece of folly. Politics do not promise him a career: the chances of the supreme bench are very small, and there is nothing like the dignity and knighthood of the English bench to look forward to, let alone the Chancellorship and the House of Lords. Public office is but a brief passing stage in his career. Why should he by a fussy activity annoy the great corporations whose legal business he did before he took office, and expects to resume when he has left office? The optimist will, perhaps, regard it as a fortunate circumstance that the

forces of commercialism are strong enough to prevent popularly elected Legislatures doing much harm. That may be so; meanwhile, however, the political education of the community is obviously delayed. Surely the best way to diminish the amount of bad legislation is to enforce what there is.

In some localities, however, a further stage in economico-political development has been reached, which to a large extent relieves the corporations from the troublesome business of violating or evading the law—by preventing such laws from being passed or by securing their passage in an unworkable form. This stage is bound up with the appearance of the political *boss*. There are bosses and bosses; but it is only during the last twenty years or so that Mr. Richard Croker has risen to the full height of the opportunity in the city of New York. Political analysis follows political evolution at some distance; it was not till the age of the Italian despots was almost over and had reached its fine flower in Cæsar Borgia that Machiavelli wrote his 'Prince;' and the nature of the American boss is only just now being subjected to scientific scrutiny. He is a many-sided phenomenon, and I shall not seek to explain his genesis. But, however he came into being, it seems clear that the great boss, like Mr. Richard Croker, derives his strength from the mutual interaction of these two conditions: (1) that being supposed to be able to control a majority in an important legislative body (in this case a city council, but a state legislature would be just the same), he is able to obtain large supplies of money from those who expect him, in return, to control his majority so that they shall not be inconvenienced; and, (2) that having large supplies of money thus placed at his disposal, he is the better able to keep his majority under control. The power of Mr. Croker is not therefore due entirely to the character of the electorate; it is due to the conjunction of an electorate, such as exists in New York, with great business interests which deem it worth while to 'placate' the party chief. It is believed that at the last municipal election in New York all the great financial concerns in that city contributed to the Democratic Campaign Fund, i.e. to Mr. Croker's resources.

Now, perhaps as scientific observers we ought not to be squeamish about this. We might say that, given such an electorate, and a legislative body which might play the most foolish tricks and upset a nation's trade, it is on the whole not an unsatisfactory thing that somebody should arise strong enough to put a bit into the mouth of Behemoth. This is a casuistry not unknown among clever young lawyers in New York who want to get on. We must all recognise that unbridled legislatures have done mad things, and will probably go on doing them. But my purpose is not to pass sentence or acquit: it is merely to point out the growing likelihood that in any large question between a great private business enterprise and a public legislative authority—e.g. a question of the terms on which a company is to run a street railway, or a hundred others—there will be some one man who will in one way or another control that authority in return for campaign subscriptions. The subscriptions may be given under widely varying conditions of political zeal on the part of the givers, ranging from genuine personal political conviction to sheer bribery; they may be used for every variety of purpose, from the hiring of halls for political meetings to the purchase of votes; and the boss's power may be used to defeat or prevent action both good and bad. But the bilateral function of the boss remains his distinguishing characteristic in every case.[1]

[1] [The Machiavelli of the new *Prince* is Mr. John Jay Chapman; see especially his article on 'The Capture of Government by Commercialism' in the *Atlantic Monthly* for February 1898. The rule of ex-Senator Quay in Pennsylvania is a phenomenon at bottom of precisely the same character as Tammany. The *Nation* for September 8, 1898, gives the following abstract of a speech by Mr. John Wanamaker, the 'Whiteley' of America, who has made himself the leader of the anti-Quay revolt: 'The principal allies and partners of the machine are the corporations. The 15,000 national and State office-holders and the thousands of other officials connected with State institutions form a small part of the whole number of obedient machine men who are constantly at the command of Senator Quay, the admitted boss of the machine; the corporation employees of the State who are controlled for Quay's use increase the number to the proportions of a vast army.'

Going into detail, he finds that the steam railroads employ 85,117 men, and the great street railways, which 'have received valuable legislative concessions for nothing,' 12,079; 'that monopoly of monopolies,' the Standard Oil, 3,000, 'who are taught fidelity to Senator Quay;' the Bethlehem Iron Works, whose armour plates are sold to the Government for nearly double the contract price offered to foreign countries, 'influence their employees to such an extent that it has been found difficult to get men to stand as anti-Quay delegates;' the thousands of working men of the Carnegie Iron Works 'are marched to the polls under the supervision of superintendents and foremen, and voted for Quay candidates under penalty of losing their jobs;' while the great express companies, with their thousands of men, can be counted on for great service to the machine; and the telegraph companies, whose State officials can be found at the inner Quay councils, with the thousands of employees distributed at every important point throughout the State, and before whom a large share of all important news must pass, constitute 'one of the most dangerous parts of the Quay machine.'

I have thought it well to omit, as too slight and inadequate to be printed, the survey of the situation in the several industries with which this lecture concluded. This will explain the somewhat abrupt manner in which these 'Prolegomena' come to an end. The English student of American conditions may be referred to the recent work of M. Emile Levasseur, *L'Ouvrier Américain*, which contains a mass of well-digested material, and to the quarterly *Bulletins* of the Bureau of Labour.]

BIOGRAPHICAL

SIR GEORGE NICHOLLS [1]

THERE is a singular appropriateness about this new edition of Nicholls's well-known history. It appears at a time when the strongest Conservative Government of this generation is firmly established in power in England, pledged up to the eyes to 'do something' in the direction of old-age pensions; a time, therefore, when the question of the relation of that modern poor law which Nicholls did so much to create to the industrial conditions of a country like England is being reconsidered in all its aspects. That the criticism of Mr. Chamberlain's and Mr. Charles Booth's proposals should be left entirely to the Charity Organisation Society is, it must be confessed, not altogether satisfactory; and even those who feel most strongly the narrowness of its principles, will be glad to see it reinforced by the experience of the strong men of 1834.

There is another reason for welcoming the present reissue. Every one who knows anything of the actual administration of poor-law relief in England is aware that the Bradfield

[1] [*A History of the English Poor Law*, by Sir George Nicholls, K.C.B., Poor-Law Commissioner and Secretary to the Poor-Law Board. New edition, containing a biography by H. G. Willink, Chairman of the Bradfield Poor-Law Union. 1898.) Reviewed in the *Nation*, June 2, 1898.]

Union, first under the chairmanship of the late Mr. Stevens, the creator of Bradfield School, and then under that of the late Mr. Garland, has for a good many years been the model for rural unions all over England. It has been thought to show the possibility of almost entirely putting an end to out-door relief even in a purely agricultural district, and that without driving larger numbers into the workhouse or causing serious distress. To the present chairman of that union, himself the grandson of Nicholls, we now owe the sober and well-written account of Nicholls's life which is prefixed to these volumes, and which by its reticent brevity contrasts so favourably with much of the biographical writing of the day.

We could, indeed, have tolerated further particulars, for the man is more interesting than his book. Daniel O'Connell once tried to raise a laugh by assuming the absurdity of setting 'a sea-skipper to regulate poor laws.' A thorough old skipper Nicholls was to the end, as one may see from the excellent portrait here given. Mr. Willink describes him, from his own boyhood's recollections, as 'a well-knit, alert old man, with keen grey eyes under extremely bushy eyebrows, rather austere, but with a genuine smile,' and, it may be added, with the firm chin and mouth of one who would carry either a ship or a public measure through every kind of storm. A life so varied in its activities as his deserves a passing glance.

The son of a Cornish farmer, George Nicholls got into the naval service of the East India Company, and was in command of a ship by the age of seven and twenty. He had made skilful use of the opportunities for trade on his own account which the Company allowed its officers, and when he married in 1813 he seemed on the high road to wealth. The year after, he lost his ship by fire, and, though exonerated from blame, he retired from the service with impaired fortunes, 'a broken man.' The next few years he spent in quiet country life; then, as his spirits returned, he began to throw himself into local administration, and in 1821, being just forty years of age, he accepted the unpaid

office of overseer of the poor in the little town of Southwell. This was the turning-point of his life: his vigorous and successful measures to diminish outdoor relief and apply 'the workhouse test' made Southwell a useful object-lesson to all poor-law reformers. But before he was called upon to apply the same principles to the whole country, his career had taken another unexpected turn. Asked to advise a friend about the Gloucester Canal, he showed such business-like qualities that he was made superintendent of its construction, and moved to Gloucester in 1823. When the monetary crisis of 1826 brought with it the ruin of the old Gloucester private bank, he induced the Bank of England to open a branch, and so impressed the directors with his capacity that in a few months he was intrusted with the delicate task of establishing a branch at the much more considerable town of Birmingham. He had set the Birmingham office on its legs, and was getting a little tired of it—for 'mere banking,' he declares, 'i.e. the receipt and payment of money and the discount of bills, is, of all the associations with which it has been my lot to be connected, the least interesting and intellectual, the most narrowing and restrictive in its influence on character'—when Lord Melbourne, invited him to become one of the Commissioners under the New Poor Law Act of 1834.

Granting that the policy of the Act was a necessary one, there can be no question of the wisdom of the choice. What the Act aimed at was to put an end to the universal and most demoralising practice of granting outdoor relief from the rates, very largely 'in aid of wages.' A man of firm character was needed to meet the outcry which the measure was bound to produce. That the purpose of the Act was in the main effected is matter of history. When we look back on the angry denunciations of the new system, with its 'Poor-Law Bastilles,' and of the 'three Bashaws of Somerset House' who introduced it, we may wonder whether any such measure could possibly have been carried out under the democratic government of the England of to-day. As to the subsequent disputes with Sir James Graham concerning

Nicholls's measures for the introduction of the new Irish poor law, the evidence here given is too scanty and (in no bad sense) one-sided to enable us to form an opinion. Ireland has always been a peculiarly difficult field for the English administrator, and *festina lente* was never Nicholls's motto. When the Commission was reorganised in 1847, Nicholls was made the scapegoat of the Government, and sank from being senior Commissioner to being permanent Secretary. But this post still furnished him with congenial employment till he retired with his K.C.B. in 1851. Still unsatiated with work, he spent the last fourteen years of his life in writing his histories of English, Irish, and Scotch Poor Law and in guiding, as chairman, the deliberations of the Birmingham Canal directorate.

No one can read Mr. Willink's sketch without feeling that Nicholls deserved well of his country. Things had got to such a pass in 1834 that rough surgery was doubtless necessary. But it may be questioned whether Nicholls and his colleagues made sufficient allowance for human nature. The recent practice of 'boarding out' on the one hand and the establishment of the casual ward on the other—not to speak of the return of a good deal of outdoor relief—are alike departures from the simplicity of the programme of 1834. The scale on which the new workhouses were planned—which now contain in most cases not half the anticipated number of inmates—shows that they were expected to play a much larger part than has since been assigned to them.

After what we have said of the author, the reader of Nicholls's history will hardly expect to find in it any particular breadth of view, extensive historical knowledge, or literary skill. The first half follows Sir Frederick Eden and the Statutes of the Realm in a leisurely jogtrot fashion, taking statute after statute just as they come in the statute-book, so long as they have anything to do with 'the condition of the people,' and commenting upon them in a sensible, though often imperfectly informed, fashion. Thus his chapters present a convenient summary of all the economic

legislation of England down to the middle of last century, and they breathe an optimism that is very cheering after the lamentations of Professor Thorold Rogers and his disciples. He even believes that the justices' assessment of wages in the sixteenth century kept pace with the rise in the price of food!

The latter part of the book, dealing with the evils that called forth the great reform of 1834, and with the first twenty years' administration of the Act, is much more original, and still forms the most complete account of the poor-law history of the period. It is also much narrower in its scope than the earlier part; the reader will not learn from it of the existence of Malthus or of his 'Essay upon Population,' which first turned the attention of thoughtful men to the inevitable consequences of the allowance plan; and he will not suspect that the period was one of profound changes in the structure of industrial society. The history becomes a sort of glorified Blue-book, with the usual limitations of such performances; but it is a permanently useful Blue-book, for all that.

ARNOLD TOYNBEE[1]

It was a happy thought on the part of Professor Adams to request, and it was a wise decision on Mr. Montague's part to allow, the publication of this sketch of the life of Arnold Toynbee in the 'Johns Hopkins Studies.' England and America have both to gain by a closer sympathy and fellowship between the economists and social reformers of the two countries. The very appearance of this memoir, and of the account of Toynbee Hall in London and the Neighbourhood Guild in New York by which it is accompanied, is a tacit confession that the circumstances of the Old and New Worlds are no longer so entirely dissimilar as they but lately seemed.

Mr. Montague has performed his labour of love faithfully and with delicacy. Purposely avoiding strong contrasts of light and shade, and using the quietest colours, he has painted for us the picture of a man who even in our own time, though breathed upon by all the influences of the modern spirit and restrained in all his work for his fellow men by the scientific conscience, could yet live the saintly life. It is the highest praise that can be given to the memoir to say that it is not unworthy of its subject.

Yet welcome as it is, it fails, in the judgment of the present reviewer, to bring into due prominence those features in Toynbee's life and action wherein above all lies his

[1] [*Arnold Toynbee*, by F. C. Montague. Johns Hopkins University Studies in Historical and Political Science, 7th Series, I. Baltimore. (1889.) Reviewed in the *Political Science Quarterly*, September 1889.]

importance in the recent history of English thought. Toynbee is important, not so much as a philanthropist or as an example of unselfishness, still less as a 'church reformer,' but as an economist, as the initiator of a new and fertile development in English political economy. To many even of his personal friends, and in no place more than in Oxford, this is a hard saying. So much was expected of him and he left behind so little! What fragments of his writings and teachings were put together after his death are so disjointed, so full of apparent inconsistencies and changes of opinion! It is so clear that both in his discussion of theory and in his practical proposals he did but follow other men—Comte, Cliffe Leslie, Walker, Bagehot, Mundella, Sedley Taylor! Even his historical work might after all seem rather an indication of what he might have done than in itself any considerable achievement. But a man's importance is to be measured not by his consistency nor by the bulk of his writings, but by the impression he has been able to produce. That impression in Toynbee's case may perhaps be defined somewhat as follows:

First, at a time when the study of political economy had sunk to its lowest point in England, he did perhaps more than any other man to create a new interest in it, a new belief in its seriousness as a scientific discipline, a new hope that in it might be found some help towards the solution of pressing economic problems.

Secondly, he turned this new interest in the direction of the historical investigation of social development, and of the direct examination of existing phenomena. His merit in this respect is none the less because he himself spoke with diffidence of the historical method and did his best to convince himself that the traditional method of deduction was indispensable. The whole bent of his mind was toward history and toward the concrete descriptive presentation of social facts. Any one who compares, for instance, the account of the economic changes of the later part of last century and the earlier half of this in his lecture on 'Industry and Democracy,' with his attempt at constructing a theory of

wages in his lecture on 'Wages and Natural Law,' will see how much more successful he is in the former, how much more the former contributes to the understanding of modern difficulties. This is the direction in which the influence of Toynbee's example is likely to be most effective. It is seen already in the character of the work undertaken by the 'Toynbee trust.' And it must not be forgotten that, fragmentary as are the lectures on the 'Industrial Revolution,' they still form the only history we possess in English of that momentous change; and that, to mention only one authority, they seemed sufficiently valuable to that eminent publicist, M. Boutmy, for him to base upon them a great part of his recent work on England.

Thirdly, Toynbee was the first professed economist in England to distinctly recognise the element of good in modern socialism, and to see in a cautious extension of the functions of the State one of the most effectual preventives of revolution.

Toynbee's resemblance in these two last respects to the historical school in Germany, and in especial to the *Katheder-Socialisten*, is, of course, too marked to escape notice. It is therefore necessary to observe that Toynbee was but scantily acquainted with German economic discussions, and that whatever impulses from outside affected him came rather from Comte, from Ruskin, from Stubbs, and from Maine.

The reviewer may perhaps be allowed, before bringing this notice to an end, to add a word or two of personal reminiscence to Mr. Montague's account of his friend. He had read through one or two of the ordinary text-books when he went to Toynbee for advice as to how to continue his economic studies. The advice was characteristic: 'Take some one subject, *e.g.* wages, and, beginning with Adam Smith, read in chronological order what each noteworthy English economist has said upon the subject, and see if you can make out the way in which various doctrines have arisen and been modified.' The reviewer may be wrong, but it is his impression that few, if any other, economists would then have been found in England who thus made the historical

development of theory the governing principle in their teaching.

He remembers again how for three terms, during 1881 and 1882, he with sixty or seventy others, mostly undergraduates, but some few graduates like himself, listened Saturday after Saturday in Balliol Hall to Toynbee's lectures on the Industrial Revolution; and how that slim, graceful figure seemed to tremble and his hands were nervously strained together, as he tried to make us realise how vast and awful a revolution it had been. And then from the spacious hall and pleasant college garden his thoughts go to a dingy room in a miserable tavern, where, amid smoke and the clatter of alepots, the sensitive and overwrought scholar presented himself for the suffrages of his fellow-citizens, and told them how much might be done, even with our existing social machinery, if those who guided it did but understand of what it was capable.

EDWARD A. FREEMAN [1]

Dean Stephens has performed his task in a workmanlike fashion, and Freeman was a considerable figure in the intellectual and political history of the last half-century; yet we put down the two volumes of the 'Life and Letters'—*Letters and Life* they should rather be named, since the letters form their larger and more interesting half—with a certain unreasonable disappointment. Recent biographies have accustomed us to expect, in works of this kind, some revelation of men's private lives—of those feelings, too sacred or too petty, which most of them in their lifetime have instinctively withheld from exhibition to the world. Whether it be the wise judgment of Mr. Freeman's family, or the good taste of Mr. Stephens, or a singular unity in Mr. Freeman's public and private life, or all three, to which it is owing, it is certainly the case that these volumes reveal no privacies and tell us scarcely anything of their hero as a son, a husband, or a father. And we are bound to acknowledge that we have no right to look for more. Interest is a good thing, but it may be purchased at too high a cost.

Then, again, Mr. Freeman's life was what people call 'uneventful.' He failed in his efforts to enter Parliament: a welcome and stalwart ally in more than one public movement—as in the agitation occasioned by the Bulgarian atrocities—he was not exactly a leader in any: his professorship

[1] [*The Life and Letters of Edward A. Freeman*, by W. R. W. Stephens, Dean of Winchester. (1895.) Reviewed in the *Nation*, July 18, 1895.]

e obtained only when he was too old and too set in character and opinions greatly to influence academic thought. Even the promise of the preface, that the reader will find herein 'a record of the growth of his opinions,' is hardly realised. Some opinions, it is true, he came to hold a trifle more loosely, as the years went on, and he certainly became aware of the existence of fields of thought outside his own and yet bordering upon them; but in the main he arrived at his opinions in early life, and pretty quickly, and held to them to the end.

In these volumes, then, we have the Freeman of the printed books which had already come from his pen. He is here looking around for his materials, rather than presenting results; he is indulging freely in playful exaggeration; he is giving never-ceasing expression to the affection he felt for some of his fellow-workers, like 'Johnny' Green, and the respect in which he held others; still it is everywhere the Freeman (though with his coat off, so to speak) that we knew already. The 'unity of history,' the 'Eternal City,' the 'unspeakable Turk,' the never-to-be-allowed Austrian 'Empire,' Earl Godwin and Harold and the battle of 'Senlac,' the *Landesgemeinden*, and primitive Aryan institutions—they are all here—only in a briefer and usually a more jocular form; for the letters are very commonly articles in brief. And so, though these volumes may, perhaps, soften some hearts that have been hard to him, by making them realise how intensely conscientious he was and how desperately hard he worked, they are likely to leave unaffected the attitude the world is inclined to take towards his work as a scholar.

This is not the place, and indeed it were much too early, to attempt to estimate Freeman's career as a whole, to add to the many essays thereat by Mr. Bryce and others which appeared at the time of his death. But it may be worth while to take this opportunity to set down some of the causes which tended, especially in his earlier years, to secure public attention for his work, and some of those, especially in his later years, that diminished that attention; and to seek

our illustrations from these new letters rather than from the books already in our possession. Of course the main reasons why Freeman has deservedly won a considerable reputation are that he possessed learning and talent and style; while the reasons why he will doubtless not be reckoned in the future among the great historians are, that he was devoid of genius, and that his style was not of the first order. But there is a harmony or want of harmony between a scholar's work and the *Zeitgeist*, which, in no slight degree, adds to or detracts from the applause of contemporaries. Taken at the flood, the tide leads on to fortune in the world of ideas as well as the world of affairs.

Freeman began his serious study of history in 1848; the last volume of the work which has done most to give him fame, the 'Norman Conquest,' appeared in 1876. This was the period during which 'the movement of nationality' reached its high-water mark and changed the face of Europe; and Freeman was both touched by, and gave expression to, the enthusiasm of the time. A fervid belief in the rights of nationalities to govern themselves gave purpose to much of his writing. With Liberals all over the world the principle had won its most glorious recognition in the resurrection of Italy; Freeman insisted upon applying it to the less evidently attractive cases of Greece and Servia, and supported the bare assertion by a profusion of historical reminiscences. Nothing could more delight those who were inclined to shout for freedom, nothing more irritate 'practical' politicians. Unfortunately, however, for Freeman's hold upon men of a later generation, the problem of nationality where it now presents itself is hardly so simple as it used to be. Nationalities are so inconveniently mixed! And in such cases even Freeman was inclined to give it up as a bad job. As he writes to Professor Ihne in 1880, when working at his 'Historical Geography:' 'The Czechs are a nuisance. I think I could draw a map as I should like to see things, but for them.'[1]

[1] *Life*, ii. 209.

Freeman's nationalist enthusiasm was both deepened and banked in by the intellectual influences that just then no English historical scholar could escape. It was a time when almost the only solid work in the field of history was being done by German investigators. It is not so now: Freeman wrote very justly in 1891 that 'the French of Paris have been lately doing work much better than they had ever done for some ages.' He hits the point of time, if not of cause, when he jokingly adds: 'I always fancy that in the war the Germans knocked some of their *Geist* into the Frenchmen's heads, and so lost some of their own.' [1] And he had long been alive to one of the weaknesses of the German professorial historian: 'Don't be angry if I say,' he writes to Professor Ihne, 'that so many of your German scholars write as if history was a matter of theory, as if they never saw any of it going.' [2] Nevertheless, he could not escape from the wave of Teutonist enthusiasm; and, as every one knows, it reached its height in his treatment of Old English history. Even a Welshman could smile at his raptures at Anderida. Referring to the oft-cited entry in the English Chronicle under the year 491, he writes to Professor Boyd Dawkins in 1868: 'At Anderida to-day I wellnigh forgot William, and thought mainly of Ælla and Cissa, and *that jolly smiting of Brets*, leaving not one remaining.' [3] With so incorrigible a boy we cannot be cross; but it was hardly a judicial frame of mind.

His Teutonism happened to fit in well with another tendency of public thought. The period was one in which parliamentary government was making headway in western Europe generally, and in which parliamentary reform was seldom out of the public mind in England. Now, Freeman was to all intents and purposes a good Liberal, but he gave much more to the Liberal cause than his personal adhesion. He satisfied that deep-rooted craving of the English mind for precedent—for some assurance that the claims of reformers are only for the restoration of ancient rights. 'We have

[1] *Life*, ii. 437. [2] ii. 262. [3] i. 415.

made changes from time to time,' he wrote in 1872 in his 'English Constitution;' 'but they have been changes which have been at once conservative and progressive. . . . They have been the application of ancient principles to new circumstances; they have been the careful repairs of an old building.' This may or may not be true; it was undoubtedly comforting. We will not quote again the well-known *Landesgemeinde* passage; but there is a reference to it here that sounds a little pathetically now. 'To stand,' he writes, 'with the clear heaven above and the snowy mountains on either side, and see the descendants of the men of Sempach and Morgarten discharge the immemorial rights of Teutonic freemen, is a sight which may well make us doubt whether we are in the common world or in some historical paradise of our own imagination.'[1] Unluckily, the recent investigation of the sources seems to show that the popular assembly of Uri has grown out of, and cannot be traced earlier than, the manorial courts of the Middle Ages. As an example of 'immemorial democracy' it is only too likely to be relegated to the 'paradise of imagination.'

To large learning and a vigorous style, then, add enthusiasm for nationality and for 'immemorial' democracy, and Freeman's earlier reputation is in large measure explained In noticing the more recent currents of thought that have dealt hardly, too hardly, with that reputation, we shall be more brief.

By the two great intellectual movements, conveniently indicated by the terms Evolution and Socialism, that have in these latter days, for good or for ill, shaped and coloured men's thoughts, Freeman was entirely untouched. Take the latter first. We now concern ourselves far more than we ever did before with the economic condition of the masses of the people, and this necessarily reflects itself in historical literature. Freeman used to quote with amusement the remark of Green, 'Freeman, you are neither religious, literary, nor social'—meaning that he gave little

[1] *Life*, i. 296.

space in his writings to the history of religion, of literature, or of society; but he hardly realised how enormously this limitation of range lessened his interest for men at large. Freeman always maintained,[1] following his master Arnold, that 'history was the biography of a political society,' and, putting external relations and wars on one side, that it was 'primarily concerned with forms of government, institutions, and laws.' 'History is past politics.' This was a view natural enough and interesting enough in Arnold's time, when all the world was bent on constitution-making, but it has to be very liberally interpreted indeed to make it equally interesting now. An easy illustration may make this clear. Freeman maintained as a young man—and seems to have held much the same view to the end—that the story of ancient Greece was of 'incomparable' value because its 'institutions developed and decayed' with 'astonishing rapidity.' 'Thus the history of a few generations became an epitome of the history of political society, and was *a sufficient school for instruction* in all the principles of an historical philosophy.'[2] But when once the fact of ancient slavery is driven well into our heads, this incomparable value of Greek history insensibly disappears. With almost all the manual labour of society done by slaves, the freest Greek democracy was a narrow oligarchy. With the manual labourers *within* the citizen body, as to-day, the problem of government is fundamentally changed.

And then as to Evolution. It is a word we are perhaps getting a little tired of; but whether we use that word or not, there can be little doubt that the thought of slow but never-ceasing change, of the appearance of new conditions out of the bosom of the old, a thought set before us in different forms by Hegel, Darwin, and Comte, is dominating the most typical historical work of the day. But Freeman was contentedly ignorant alike of philosophy and of biology, and was never possessed by the idea of development. And this it is which, added to the limitation of his view to 'politics.'

[1] *Life*, i. 108. [2] i. 122.

makes his application of the idea of the 'unity of history' seem sometimes so mechanical. One large fragment of the drama of history he saw clearly enough in some of its aspects—the rise and long-abiding influence of the Roman Empire. But, for the rest, the continuity of history was very apt to be with him only geographical. Such and such things had happened centuries ago in such a place, and accordingly—so the argument might seem to run—we ought to regard with such and such views events happening there now. 'The enslavement of Greece,' says his biographer, 'by the alien and infidel Turk was to him the most melancholy and distressing event in all history.'[1] How it came about that Greece was enslaved, he made no serious attempt to answer. History to him was full of the irrational or the unrational; and to a generation that sees, or thinks it sees, more and more meaning in the world outside man, his utterances concerning mankind could not but be unsatisfying.

And yet we would not leave the matter thus. Freeman was moved too greatly by the intellectual fashions of his early manhood, he was moved too little by the intellectual fashions of the present day, to obtain many eager readers just now. He wrote so very much that his style inevitably suffered—Mr. Stephens's vindication of him from the charge of 'diffuseness' rests on an odd confusion between diffuseness and minuteness[2]—and he has probably left nothing that will live as literature. He produced, however, a vast amount of solid work; and a future generation, not quite so *blasé* as our own and not quite so familiar with his catchwords, will find that it can hardly take up a bit of it anywhere without being instructed and stimulated. And, after all, his everlasting insistence on the great external facts of the history of the western world erred chiefly in going no further. To have a firm grasp upon them is, indeed, the beginning of wisdom; and if some of us have grumbled in the past because he kept us at the 'vile rudiments,' we cannot help

[1] *Life*, i. 107. [2] ii. 473.

seeing that only too many people nowadays are ready to skip the necessary preliminaries. We are inclined to say that, if we had our way, we would set every student who was about to take 'a course in Sociology' through a pretty stiff examination in Freeman's 'General Sketch of European History.'

LORD ACTON[1]

The newly appointed Regius Professor of Modern History in the University of Cambridge is one of the most interesting figures in English society. The old Catholic gentry of England have honourable and pathetic traditions of loyalty to a lost cause which give them a place apart from the humdrum conformities of neighbouring squires; and from such a family in Shropshire is Lord Acton descended. When the time came, these Catholic gentry were faithful, from interest and sentiment, to that other lost cause, the Stuart monarchy; and it was from Charles I. that an ancestor of Lord Acton received his baronetcy. And to these family memories have been added others equally remote from the commonplace. His grandfather was Prime Minister and Commander-in-chief of the forces of Naples under the Bonapartes; his father married the heiress of that Duke of Dalberg who throve on the favour of the first Napoleon, acted as his go-between with the court of Vienna, and abandoned him with the turn of the tide; his cousins have been generals and ministers, or have married generals and ministers, for the last half-century of Italian history.

Out of such a family one might look either for a *dévot* or a diplomat. That Lord Acton is neither must be ascribed to the fortunate chance or wise choice which brought him in his early years under the influence and into the com-

[1] [*A Lecture on the Study of History*, delivered at Cambridge June 11, 1895, by Lord Acton, LL.D., D.C.L., Regius Professor of Modern History. Reviewed in the *Nation*, January 9, 1896.]

panionship of Dr. Döllinger, then at the height of his reputation at Munich. Döllinger's teaching made of him a scholar and a Liberal, and it is said to have been Lord Acton who organised the opposition in Rome and Germany in 1870 to the acceptance of papal infallibility by the Vatican Council; and when his friend Mr. Gladstone—from whom he had received his peerage in 1869—attacked somewhat later 'the Vatican decrees,' Lord Acton boldly placed himself by his side. He has remained within the Roman Communion; the strength of family tradition has probably kept him from joining in the heroic but hopeless Old Catholic movement: but his intellectual attitude towards the church of his fathers on the one hand, and, on the other, towards the world of free historical investigation in which he habitually lives, has continued to present a psychological enigma. As Browning makes one of his shrewdest characters remark,

'Our interest's on the dangerous edge of things;'

and Lord Acton draws to himself the same sort of curious attention as Mr. Mivart.[1]

Lord Acton had long been known for his exhaustive acquaintance with historical literature when, in 1886, he contributed the opening article, on 'German Schools of History,' to the first number of the 'English Historical Review.' Of that unique piece of work—those thirty-six pages of brilliant characterisation and comment, bristling with epigram, caviare to the vulgar alike from their all-pervading allusiveness and a style as of a George Meredith turned historian—this only need be said here: that it is perhaps the only magazine article that has ever served as a justification for appointment to a chair in a great university. When in 1894 the filling of Sir John Seeley's chair became the task of Her Majesty's Government, it was not unnatural that, if Mr. Gladstone hinted at Lord Acton's willingness to accept the honour, Lord Rosebery should feel a certain gratitude towards one of the scanty band of Home-Rule peers. But those who cared for historical scholarship rather than

[1] The reader in 1900 will remember that this was written in 1895.]

for historical pedagogy recognised that a choice had been made which was not likely to do discredit to the reputation of Cambridge.

And now Lord Acton's inaugural address is before us. Considering what difficulties have arisen with the Church of Rome in many a university over the teaching of history, considering that a Roman Catholic was here stepping into the only professorship of modern history in a university still almost completely Protestant, there was abundant occasion for curiosity. The impression produced was, in many quarters, one of mystification and bewilderment. At first reading—and few will give more than a first reading—there seems no clear pronouncement on anything. Many of the paragraphs, and still more of the separate sentences, look as if they had no connection with what precede or follow; and the London 'Times' confessed solemnly that to some passages it could assign no probable interpretation. Moreover, when a proposition does, apparently, stare us in the face, it is a mere commonplace—say other critics. But any one who had considered Lord Acton's career and his essay of 1886 might have anticipated that he would be careful—to use a convenient colloquialism—not 'to give himself away;' that he would see both aspects of every question, and try to express them at the same time; and that the expressing of them, in sentences packed with thought and unassisted by connecting particles, would not make easy reading.

It is, however, after all, not so very hard, on a second reading, to catch the drift of the discourse. After distinguishing 'modern' history from 'contemporary,' and claiming a broader field for history than mere politics, for 'politics and history are interwoven, but not commensurate,'[1] he argues that modern history is clearly distinguished from mediæval by that sudden 'forward movement' which initiated modern progress towards liberty of thought and action. Modern history is intensely interesting because it 'touches us so nearly,'[2] and affects our vital interests—first

[1] *Lecture*, p. 5. [2] P. 74.

among them Religion.[1] 'Whatever a man's notions of these later centuries are, such, in the main, the man himself will be. Under the name of History, they cover the articles of his philosophic, his religious, and his political creed.'[2] Religion, furthermore, has played a great positive part in relation to 'the significant and central feature of the historic cycle before us'—'the progress of the world towards self-government.'[3] For, 'but for the strength afforded by the religious motive in the seventeenth century,' that progress would have been arrested. Lord Acton fails not to give a passing word to those who refuse to see progress in increasing liberty; but his own opinion is clear enough. The constancy of progress is the tribute of modern history to the theory of Providence;[4] it is 'the action of Christ who is risen.'[5] After showing how the modern Historical Movement arose 'directly and indirectly, by development and reaction,'[6] from the storm of the French Revolution, he describes the characteristics of 'the present order of things' in historical writing—the use of original sources, the application of criticism, and the dogma of impartiality; and this leads up to a criticism of the method of Ranke, 'the representative of the age which instituted the modern study of history,' and 'taught it to be critical, to be colourless, and to be new.'[7] He ends with a powerful and even touching appeal to the men before him not to yield to the modern temptation to identify explanation with justification. 'The weight of opinion is against me when I exhort you never to debase the moral currency or to lower the standard of rectitude, but to try others by the final maxim that governs your own lives, and to suffer no man and no cause to escape the undying penalty which history has the power to inflict on wrong.'[8]

These, then, are the 'commonplaces' of Lord Acton's address: That liberty, on the whole, means progress; that in the past, as in the present, black is black and white

[1] *Lecture*, p. 21. [2] P. 73. [3] P. 27. [4] P. 28.
[5] P. 31. [6] P. 36. [7] P. 48. [8] P. 63.

white. Is it objected that the only significance in the first proposition lies in its coming from a Roman Catholic? Surely it is something that a man of sixty years, one who has seen 'many men and cities,' one who is bound by strong ties to the past, and who knows all that can be said of the seamy side of modern life, should thus confirm the faith that we indolently suppose ourselves to hold. And as to the second, no one who has immersed himself in historical literature will refuse to recognise the grave dangers which do in sober earnest beset our moral judgment.

Lord Acton is not, so far as we are aware, an original investigator; he is content to read and ponder with all the shrewdness of a man of affairs and of the world over the historical works of others; and he is as far as possible removed from the popular lecturer or entertaining essayist. But there is certainly need of men of his type; and if he does not exactly stimulate Cambridge undergraduates either to begin to read or to begin to make research, he will probably, to those who have already made some way with reading and research, be a wise counsellor and a helpful critic.

ACADEMIC

JOWETT AND THE UNIVERSITY IDEAL[1]

The expansion of American universities which has been so conspicuous a feature of the last quarter of a century is evidently slackening just now under the strain of business depression. Academic revenues are shrinking; new endowments are rare; the number of students, instead of advancing by leaps and bounds, is wellnigh stationary; and it is pretty generally recognised that any enlargement of teaching or improvement of surroundings that calls for further expenditure must be postponed to a more propitious season.

During this quarter of a century of expansion there has not only been material growth; new ideals of study, new methods of instruction, have been introduced, which have already exerted no small influence on several generations of undergraduates. Yet one cannot mingle much with the men now coming to the front in professorial circles without perceiving a certain uneasiness among them as to some features of the new system, a certain tendency to revert to older and apparently abandoned conceptions of academic duty. The lull in things external seems likely to be utilised for reflection on things internal. In this time of halt, of return upon ourselves, we cannot fail to greet with peculiar interest the record of the lifework of a great academic in another

[1] [*Atlantic Monthly*, July 1897.]

land.[1] It is from this point of view, and this only, that I shall here consider Jowett.

First, a word or two as to the chronology of his life. Born in 1817, he received his early education at St. Paul's School, and, after winning a Balliol scholarship in 1835, went up to Oxford in 1836. In 1838, while still an undergraduate, he was elected to the Balliol fellowship, which he held until he became Master. After taking his degree in 1839, he became assistant tutor of his college in 1841; was ordained in 1842, and was appointed to the tutorship which thenceforward engaged most of his attention until he exchanged it for the Mastership—itself, in his eyes, a sort of glorified tutorship. In 1855 appeared his edition of three Epistles of St. Paul, and in the same year he was appointed by the Crown to the Regius Professorship of Greek. The theological antagonism awakened by his book on the Epistles led to the withholding for a decade of the salary which was attached in equity, if not legally, to the Greek chair. Clerical hostility was inflamed still further by the appearance of 'Essays and Reviews' in 1860, which contained a paper from Jowett's pen on the 'Interpretation of Scripture.' In 1870 he was chosen Master of Balliol; and the translation of Plato's Dialogues, which was his most considerable literary work, appeared on the very day of his election. In 1881 was issued his translation of Thucydides; in 1885 his translation of the Politics of Aristotle; and from 1882 to 1886 he served the usual term of four years as Vice-chancellor of the university. He died on October 1, 1893.

The reader who has glanced over this short list of landmarks in Jowett's life may be surprised to learn that in the Oxford and England of our own time his reputation rests almost entirely on his activity as Master of his college. His theological writings first attracted to him the notice of the world at large; his translations have opened the treasures of Greek thought to thousands who could profit by them, and to whom they would otherwise have remained sealed.

[1] *The Life and Letters of Benjamin Jowett, Master of Balliol College, Oxford.* By Evelyn Abbott and Lewis Campbell. 1897.

But more than thirty years before his death Jowett abandoned all attempts to guide the religious thought of the country. He long dreamt of writing a life of Christ; but when, in his later years, he was asked why he did not carry out the plan, 'he replied, falling back in his chair, with tears in his eyes, "Because I cannot; God has not given me the power to do it."' And his biographers assure us that 'after the harsh reception of his theological work, he was haunted by the fear that, by writing, he might do harm as well as good.' His translations, again, appeal more to the general public than to the scholar; Jowett was not a great classical scholar, in either the German or the English sense of the word. In the field of university politics, moreover, he does not seem to have initiated any one movement of the first importance. But as Master he was a great and brilliant success; and in the college and through the college he exercised enormous influence. Early in his reign he wrote to a friend, 'I want to hold out as long as I can, and hope to make Balliol into a really great college if I live for ten years.' He lived for twenty years, and died knowing that he had accomplished his purpose. Never was there a Head so bound up with his college, so keenly attached to its interests, its members, and its associations. Without wife or child, and for the last few years of his life without a single near relative, the college was his only home, and took the place of family ties. Never, in return, was there a Head of whom his college was so proud as Balliol was of 'old Jowler,' or who was regarded with the same mingled feeling of awe and admiration and protecting affection.

How, then, did Jowett esteem his own work? What did he consider the peculiar functions of the university or the colleges? It will be observed by every attentive reader of the Life, first, that Jowett hardly assigned any specific function to the university as such, as distinct from the colleges; and, secondly, that both for the college and for the university he laid almost exclusive stress on the two tasks of promoting education and of bringing about social intercourse. In his first sermon in Balliol Chapel after his

election to the Mastership, he spoke of the college, 'first, as a place of education; secondly, as a place of society; thirdly. as a place of religion.' He was accustomed to use very similar language about the university: 'There are two things which distinguish a university from a mere scientific institution: first of all, it is a seat of liberal education; and secondly, it is a place of society.' Both education and society he conceived of nobly. He sought to impress upon each generation of undergraduates 'the unspeakable importance of the four critical years of life between about eighteen and twenty-two,' when the task before each young man is to improve his mind, to eradicate bad mental habits, to acquire the power of order and arrangement, to learn the art of fixing his attention.' 'The object of reading for the schools'—the final honour examinations—'is not chiefly to attain a first class, but to elevate and strengthen the character for life.' As against those who declare examinations injurious, he maintained that 'they give a fixed aim, towards which to direct our efforts; they stimulate us by the love of honourable distinction; they afford an opportunity of becoming known to those who might not otherwise emerge; they supply the leading-strings which we also need. Neither freedom nor power can be attained without order and regularity and method. The restless habit of mind which passes at will from one view of a subject or from one kind of knowledge to another is not intellectual power.' On the value of social intercourse he laid almost equal stress. 'His ideal of the work and office of the university' was that it should form 'a bridge which might unite the different classes of society, and at the same time bring about a friendly feeling in the different sects of religion, and that might also connect the different branches of knowledge which were apt to become estranged one from another.' He was anxious 'to bring men of different classes into contact,' for the benefit especially of those who had had no social advantages. 'Jowett observed that men of very great ability often failed in life, because they were unable to play their part with effect. They were shy, awkward, self-conscious, deficient in manners

—faults which were as ruinous as vices.' And the supreme end which Jowett kept in mind for all this training of every kind was 'usefulness in after-life.'

Towards promoting social intercourse much was done by college life itself,—by the mere juxtaposition of undergraduates in hall and chapel and quadrangle, by spontaneous association in sports and debating clubs; towards education much was done by the stimulus and guidance of a properly devised scheme of examination. But both together were insufficient, left to themselves; another force was necessary, and that force Jowett found in the tutorial system.

I doubt whether it is possible to give anything like an accurate impression of the Oxford tutorial system to those who have not seen it at work. There is the initial difficulty of framing any brief generalisation which shall be reasonably true for all the studies of the place and all the colleges. The practice varies from college to college, and in several colleges it has not seemed possible to extend tutorial supervision to the recently introduced studies in physical and biological science. It may be said with sufficient accuracy that all save a small minority of undergraduates, during the greater part of their university career, work under the immediate oversight and direction of a college tutor, whether he actually bears that name or the more humble designation of 'lecturer.' The system is more highly developed with honour men than with pass men, and it can be best studied in the two 'honour schools' of Literæ Humaniores and Modern History, which attract perhaps four out of five honour students. Colleges prefer to appoint their tutors from among their own fellows; and in spite of all the recent changes, the majority of the tutors still reside within the college walls.

The tutors of the last fifty years have been among the most industrious of men, taking their duties very seriously, and watching with sedulous care the progress of their pupils from week to week, and from term to term. As a rule, each undergraduate has a regular appointment with his tutor every week; he is seen alone for half an hour or three-quarters, and exhibits a piece of work, usually in the form of

an essay, which is then and there read and criticised; and these weekly pieces of work are so arranged that the undergraduate may acquaint himself, during the allotted time, with the whole field on which he proposes to be examined.

This conception of tutorial duty has been a growth of the present century, and indeed would seem first to have made itself visible about 1830 and in Oriel College. Very different was the condition of things when Gibbon went up to Magdalen in 1752. His first tutor, he tells us, was 'one of the best of the tribe,' but even 'he was satisfied, like his fellows, with the slight and superficial discharge of an important trust.' When the young Gibbon began to make excuses, they were received with smiles. 'The slightest motive of laziness or indisposition, the most trifling avocation at home or abroad, was allowed as a worthy impediment; nor did my tutor appear conscious of my absence or neglect. No plan of study was recommended for my use; no exercises were prescribed for his inspection.' His next tutor was even worse. 'Dr. —— well remembered that he had a salary to receive, and only forgot that he had a duty to perform. Excepting one voluntary visit to his rooms, during the eight months of his titular office the tutor and pupil lived in the same college as strangers to each other.'

Even after the reformed scheme of examination for degrees was introduced in 1802—largely owing to the efforts of Eveleigh, the Provost of Oriel—some time elapsed before college teaching came to be directed towards fitting men to obtain honours. 'That was the day,' says Mark Pattison in his 'Memoirs,' speaking of 1830, 'of private tutors; it was the "coach," and not the college tutor, who worked a man up for his "first."' The originality of the first set of energetic college tutors at Oriel—Newman, Hurrell Froude, and Robert Wilberforce—consisted precisely in this, as a contemporary put it: that 'they bestowed on their pupils as much time and trouble as was usually only expected from very good private tutors.

When Jowett went up to Balliol, the new tutorial enthusiasm had already made its way thither, and his

predecessor as tutor, A. C. Tait (afterwards Archbishop of Canterbury), had made a great impression on the college by his assiduity and his charm of manner. Jowett, in spite of the shyness which hampered him throughout life, applied himself with extraordinary energy to the tutorial task; and it was thus that, after a few years, he began to gain influence, and to win for himself the enthusiastic esteem of scores of undergraduates. Varying accounts are given of his early tutorial years; but it is certain that 'his devotion to his pupils was, at this time, something unique in Oxford.' One distinguished pupil of his between 1852 and 1854 tells us that he 'often took composition to Jowett at half-past twelve at night.' Jowett early established the custom of taking half a dozen men of ability away with him in the vacations, to work under his eye for a few weeks—a practice he maintained till almost the end of his life. Such zeal soon produced a crop of first classes for Balliol, and raised the intellectual reputation of the college; the infection was caught by such of his own pupils as became tutors at Balliol or at other colleges; and tutorial ardour, once introduced, was fanned by intercollegiate rivalry. As soon as he became Master, Jowett added the coping-stone to the fabric by 'establishing weekly tutorial meetings, at which he never failed to attend, going through the whole list of undergraduates, and satisfying himself by inquiry about the work of every man'—two hundred or more; and other colleges, again, imitated, with various modifications, the new machinery. Among the qualities desirable in the Head of a college, set down in some curious memoranda of Jowett's, occurs this requirement: 'He should know how to "put pressure" upon everybody.' His own Mastership left nothing to be desired in this respect.

Jowett was thus, in large measure, the creator of the modern tutorial ideal. What that involves may be readily gathered from a phrase used in passing by one of the writers of the Life, himself an eminent Balliol tutor. College tutors, he tells us, are held 'responsible for the position of a pupil in the class list.'

Yet as tutor he was more than an instructor. He wished to know his undergraduates personally, to influence the development of their characters in every possible way for good, to promote sociability, and bring men together. Hospitality was therefore a duty as well as a pleasure, and 'he was the most hospitable of men.' 'When his stipend as Greek professor was increased, the fact was brought home to us his pupils by the increase in the plates and dishes which his servant piled up on the stairs leading to his room. He had undergraduates with him at almost every meal; he wished to know as much of them as possible.' What Jowett did, his disciples who were tutors did in their turn; when he became Master, he 'urged the Balliol tutors to do the same.' In later years, he rejoiced to fill the Master's Lodge, from Saturday to Monday, with visitors of distinction, and many a joke has been cracked about this little hobby. But 'he never, in anything that he did, forgot the college or the undergraduates, and nothing was more remarkable in him than the pains which he took about the future careers of his "young men." This was, in his opinion, one of the chief duties of the head of a college.'

So the ideal of the tutor was still further enlarged, and grew to be what we know it: that combination of authority and comradeship, of dignity and *bonhomie*, which is often presented in forms of infinite attractiveness, and which has excited the longing admiration of so many American observers.

There is a significant passage in Pattison's 'Memoirs' where he explains the reasons which led the Provost of Oriel to get rid of the three energetic and successful tutors before mentioned: 'Newman insisted upon regarding his relation to his pupils as a pastoral one. Unless he could exercise the function of tutor on this basis, he did not think that he, being a priest, could be a tutor at all. . . . The Provost's proposal that all undergraduates should be entered under one common name, and no longer under respective tutors, interfered with Newman's doctrine of the pastoral relation. This was the point which Newman would not give up, and

for which he resigned.' Pattison remarks, in his unsympathetic fashion, that if Newman had succeeded, 'a college would have become a mere priestly seminary.' But seven or eight years later we find Tait, at Balliol—a most unpriestly tutor—turning over in his mind 'what can be done to make more of a pastoral connection between the tutors and their pupils.' In fact, through all the changes that the last sixty years have brought, with most of the tutors laymen, and many by no means orthodox, with every effort to wear velvet gloves and to keep serious purposes well in the background, the ideal of the relation has continued to be, in a very real sense, a pastoral one.

So much, then, for the theory; now as to the results. None but a fanatical and unobservant adversary can deny that the system is in many respects highly beneficial to the undergraduates. The abler men are taught to work rapidly and consecutively; they acquire a great deal of information; they learn the art of presenting their knowledge in lucid and forcible shape. The stupid and the idle are made to do some systematic work; and an enthusiastic tutor will succeed in striking a spark of genuine interest out of perhaps one in ten even of them. But there are some deductions to be made from the verdict of success. The tutorial system often does for the undergraduate more than is good for him. In one of his sermons of 1885, Jowett compares the present Balliol undergraduate with his predecessor forty or fifty years ago, not altogether to the advantage of the former: 'There is greater refinement and greater decorum; there is also more knowledge and steady industry. On the other hand, there was more heartiness and originality and force among the youth of that day.' In that entertaining and witty book, 'Aspects of Modern Oxford, by a Mere Don,' there is the same lament: 'There are certain indications that the undergraduate is less of a grown-up person than he was in the brave days of old. It takes him a long time to forget his schooldays. Only exceptionally untrammelled spirits regard independent reading as more important than the ministrations of their tutor.'

If the intellectual results are not wholly satisfactory, what of the social? Under Jowett, Balliol grew in numbers, till it outstripped all other colleges except Christ Church; and the undergraduate body became more and more composite in social origin—from the earl down, or up, to the clever son of the artisan. Jowett's dream was that the earl and the artisan's son should fraternise; but, as a matter of fact, they did not. It was notorious in Oxford that Balliol was one of the most cliquy of colleges. Jowett did his best to fight against the growing evil. He induced Mr. John Farmer to come from Harrow and establish Sunday evening concerts of classical music, and Monday evening smoking concerts with college songs, as a means of binding the college together. But, with all his shrewdness, he failed to realise that a large and diversified college is incompatible with real acquaintance with one another on the part of the undergraduates. No quantity of college songs or tutorial 'tea and toast' can make headway against the centrifugal forces.

This is the undergraduate's side of the account; now for the tutor's. The Oxford tutor—his admirers, like 'a Mere Don,' regretfully acknowledge it—has become a schoolmaster, with the qualities and the defects of the qualities. Other and external causes have contributed to make him the overworked schoolmaster he is; for the number of tutors has by no means increased, as it should have done, in proportion to their labours. Professor Freeman used to point out—as his recent biographer tells us—that 'the university was becoming less and less a centre for learning, and sinking more and more into a mere educational machine;' and that 'meanwhile the ablest works in philosophy and history proceeded from university men, indeed, but not, as a rule, from those who were resident, but from the cabinet minister, the banker, or the country clergyman.' This is not hard to account for. Let any one read the humorous Diary of a Don, in 'Aspects of Modern Oxford,' with its picture of perpetual bustle from morning to night, and he will understand how exceedingly difficult it must be to get much time for steady reading or quiet thought.

Did Jowett realise any part of this? Hardly. And still there are some significant phrases in his letters. Writing to Stanley in 1852, and urging him to take the headship of a proposed 'Balliol Hall,' he was careful to point out that the position was 'not that of a drudging college tutor.' In 1870 he confessed to the same friend that he was glad to reach the Mastership, 'because I want more rest and leisure to think, and I have been overworked for many years past. Among his Memoranda has been found a little set of 'Maxims for Statesmen and Others,' wherein 'Never spare' and 'Never drudge' stand cheek by jowl.

The pressure of duty upon the tutor has been very considerably increased by the growth of the 'combined lecture' plan. Many of the tutors, besides giving instruction to their college pupils, lecture two or three times a week, to all undergraduates who choose to attend. As a result, some of them perform what one may describe as 'professorial' functions in addition to their strictly tutorial ones. As Freeman put it less kindly, they have 'become mongrel beings—neither professor, nor college tutor, nor private coach.' It needs but little reflection to see how severe must be the strain upon the teacher who, besides being responsible for the examination feats of a couple of dozen undergraduates, tries to keep abreast of the latest investigations in the special subject on which he is lecturing.

Jowett viewed the outcome of these tendencies with much disquietude, but, characteristically enough, on account of the hearer, not of the lecturer. The substitution of 'prælections' for the older catechetical instruction, he declared in his later years, was 'utterly bad for the students, though flattering to the teacher.' Often the mere listening to a lecture is 'no intellectual discipline at all.' Yet the 'combined lecture' was in two ways the result of Jowett's action and that of men like him. It was the inevitable result of intercollegiate co-operation; it was also the outlet which the professorial instinct, irrepressible in a great modern university, found for itself under the tutorial *régime*. In his evidence before the University Commission in 1877, Jowett urged the

necessity of enlarging the professoriate in order to create 'a career to which college tutors can look forward,' now that they no longer look to preferment in the Church. But nowadays men are hardly likely to be appointed to professorships unless they have done some more or less original work in the subject of the chair. How men are to do that original work, and at the same time be college tutors of the kind Jowett would have had them, it is not easy to see.

Up to this point, it will be observed, I have abstained from criticising the tutorial ideal as Jowett cherished it, and the preceding remarks as to its deficiencies have been based chiefly on Jowett's own observations. The readers of this paper probably do not need to be told that another university ideal has had its champions in Oxford, and that the tutorial system has not been without its critics. Of these the most vigorous and emphatic was Mark Pattison, the late Rector of Lincoln. According to Pattison, the colleges were never intended by their founders to be 'establishments for the education of youth,' 'schools for young men who had outgrown school,' but rather to be 'retreats for study.' The original object of their foundation was 'the promotion of learning,' 'the endowment of knowledge.' 'So far from its being the intention of a fellowship to support the Master of Arts as a teacher, it was rather its purpose to relieve him from the drudgery of teaching for a maintenance, and to set him free to give his whole time to the studies of his faculty.' It was the Jesuits who first introduced 'the principle of perpetual supervision, of repeated examinations, of weekly exercises,' that is, the tutorial method—at first greeted as a reform, but found in the end to produce 'starved and shrivelled understandings.' Pattison demanded a return to the old ideals, an 'endowment of research' in some shape or other, even if it could take no better form than the creation of a body of professors whose true purpose was 'veiled from the sneers of Philistinism by the thin disguise of setting them to deliver terminal courses of lectures to empty benches.' That Oxford should do nothing but educate, and educate for examinations, was bad, he declared, for both teacher and taught, and fatal

to the university as a place of learning. He had himself been a highly successful tutor, and in his earlier days had done for Lincoln something like what Jowett, his contemporary, was doing for Balliol. 'I have never ceased,' he declared in the closing days of his life, 'to prize as highly as I did at that time the personal influence of mind upon mind —the mind of the fully instructed upon the young mind it seeks to form. But I gradually came to see that it was impossible to base a whole academical system upon this single means of influence.' Jowett, meanwhile, as his biographers tell us, 'had no sympathy with the organised endowment of research, and he was strongly opposed to any measures which were likely to lessen the influence of the colleges.' Nor was he afraid to exclaim, 'How I hate learning!'

Whatever the purposes of the original founders may have been, we may be pretty sure that the English universities will never become primarily places of original investigation or homes of learned leisure. There is the crowd of undergraduates to be dealt with somehow; there is the obvious benefit that can be conferred upon the students, and the influence for good that can be exercised through them upon the nation. On the other hand, it can hardly be maintained that Oxford does as much as might fairly be expected of her for the advancement of knowledge; and it is scarcely seemly for her to be so very dependent for fresh ideas and new conclusions upon German universities and 'private scholars.' Of course it is good for most scholars to be compelled from time to time to take stock of their labours and to put their results into teachable shape. It is equally true that academic teaching is bound, in the long run, to deteriorate unless it is inspired by the consciousness of widening knowledge and the hope of personally advancing the cause of science. No Oxford man who has had any experience in American universities will be inclined to underestimate the incalculable service done to the undergraduate by collegiate life and discipline. It is rather a case of 'These ought ye to have done, and not to leave the other undone.' Perhaps even

now forces are at work which will restore the balance. The professorships established by the last university commission are beginning to make themselves felt; the number of 'schools,' or curricula for honours, is being increased; two scholarly journals, comparable with the best of any country, the English Historical Review and the Economic Journal, are being edited in Oxford; and the ideas of 'graduate studies' and 'research degrees' are in the air. Oxford has already much to offer the serious American graduate student; and perhaps his resort thither will in some slight measure help Oxford herself to return to her older traditions.[1]

When we turn from Oxford and Jowett to the university problem in America, our first impression, maybe, is of the total dissimilarity of conditions, and of the hopelessness of deriving any lessons from English experience. Yet the American reader of Jowett's biography will be singularly irresponsive if it does not prompt some consideration of the functions of the university in this country. In what I have left to say, I shall confine myself to Harvard, with which alone, among American universities, I have any intimate acquaintance.

The peculiarity in the position of Harvard is that while the professorial ideal has definitely triumphed among the teaching body, the tutorial ideal is still cherished by the 'constituency.' Most of the professors care first of all for the advancement of science and scholarship; they prefer lectures to large audiences to the catechetical instruction of multiplied 'sections,' and they would leave students free to attend lectures or neglect them, at their own peril; they would pick out the abler men, and initiate them into the processes of investigation in small 'research courses' or 'seminaries;' and, to be perfectly frank, they are not greatly interested in the ordinary undergraduate. On the other hand the university constituency—represented, as I am told, by

[1] [A great deal has been done in Oxford since this article was written to encourage the resort of graduate students to Oxford. American readers may be referred to the clear account of the whole academic legislation by Mr. Louis Dyer in the *Nation*, June 7, 1900.]

the Overseers—insists that the ordinary undergraduate shall be 'looked after;' that he shall not be allowed to 'waste his time;' that he shall be 'pulled up' by frequent examinations, and forced to do a certain minimum of work, whether he wants to or not. The result of this pressure has been the establishment of an elaborate machinery of periodical examination, the carrying on of a vaster bookkeeping for the registration of attendance and of grades than was ever before seen at any university, and the appointment of a legion of junior 'instructors' and assistants, to whom is assigned the drudgery of reading examination-books and conducting 'conferences.'

So far as the professors are concerned, the arrangement is as favourable as can reasonably be expected. Of course they are all bound to lecture, and to lecture several times a week; they exercise a general supervision over the labours of their assistants; they guide the studies of advanced students; they conduct the examinations for honours and for higher degrees; they carry on a ceaseless correspondence; and each of them sits upon a couple of committees. But they are not absolutely compelled to undertake much drudging work in the way of instruction, and if they are careful of their time they can manage to find leisure for their own researches. As soon as a 'course' gets large, a benevolent Corporation will provide an assistant. The day is past when they were obliged, in the phrase of Lowell, 'to double the parts of professor and tutor.'

But the soil of America is not as propitious as one could wish for the plant of academic leisure. It is a bustling atmosphere; and a professor needs some strength of mind to resist the temptation to be everlastingly 'doing' something obvious. The sacred reserves of time and energy need to be jealously guarded, and there is more than one direction from which they are threatened. University administration occupies what would seem an unduly large number of men and an unduly large amount of time; it is worth while considering whether more executive authority should not be given to the deans. Then there is the never-ending stream

of legislation, or rather of legislative discussion. I must confess that when I have listened, week after week, to Faculty debates, the phrase of Mark Pattison about Oxford has sometimes rung in my ears: 'the tone as of a lively municipal borough.' It would be unjust to apply it; for, after all, the measures under debate have been of far-reaching importance. Yet if any means could be devised to hasten the progress of business, it would be a welcome saving of time. Still another danger is the pecuniary temptation—hardly resistible by weak human nature—to repeat college lectures to the women students of Radcliffe. That some amount of repetition will do no harm to teachers of certain temperaments and in certain subjects may well be allowed, but that it is sometimes likely to exhaust the nervous energy which might better be devoted to other things can hardly be denied. The present Radcliffe system, to be sure, is but a makeshift, and an unsatisfactory one.

The 'instructors' and assistants, on their part, have little to grumble at, if they, in their turn, are wise in the use of their time. It is with them, usually, but a few years of drudgery, on the way to higher positions in Harvard or elsewhere; and it is well that a man should bear the yoke in his youth. Let him remember that his promotion will depend largely upon his showing the ability to do independent work; let him take care not to be so absorbed in the duties of his temporary position as to fail to produce some little bit of scholarly or scientific achievement for himself. I have occasionally thought that the university accepts the labours of men in the lower grades of the service with a rather stepmotherly disregard for their futures.

Come now to the 'students,' for whose sake, certainly, Harvard College was founded, whatever may have been the case with English colleges, and whose presence casts upon those responsible for academic policy duties which they cannot escape, if they would. Grant that education—and education as Jowett understood it, the training of character as well as mere instruction—is the main business of a university, what is to be said of the situation of affairs? That

we do as much here for the average man as the Oxford tutorial system accomplishes, it would be idle to affirm. The introduction of the tutorial system, however, is out of the question: it needs the small college for its basis; it requires that the tutor should enjoy a prestige which we cannot give him; and it is still further shut out by 'elective' studies. Yet in its way the Harvard practice suffers from the same defects as the Oxford; it does too much for the men. Take the matter of examinations, for instance. Surely it would be better to relax the continuous pressure—which after all is not in any worthy sense effective—and to reinforce it instead at special points. It was the conviction, we are told, of Professor Freeman that 'if examinations were necessary evils, they should be few, searching, and complete, not many and piecemeal.' At present, there are so many 'tests,' of one sort or another, that no one examination sufficiently impresses the undergraduate mind. The kind of work done by a student who is so persistently held up by hour-examinations and conferences that he must be an abnormal fool to 'fail' at the end, cannot be regarded as really educational in any high sense of the word. By a great many men, the help showered upon them is regarded merely as the means of discovering just how little they can do, and still scrape through. To sweep away all examinations except the final annual one; to leave the student more to himself; to set a higher standard for passing, and ruthlessly reject those who do not reach it, would undoubtedly, in the long run, encourage a more manly spirit on the part of undergraduates, and a deeper respect for the university. This I say with the fuller confidence because, when I left Oxford, now (1900) some twelve years ago, I could see nothing but the evils of the examination system as it there affects students of promise. I am convinced that it would be possible and salutary in Harvard to add greatly to the awfulness of examination; and that much could be done in this direction without approaching within measurable distance of any results that need be feared.

From a natural distrust of examinations and a desire to

encourage independent thought, it has of late become the practice to prescribe two or more theses during the progress of a 'course.' The result is that many a man has half a dozen or more theses to write during the year, for two or three different teachers. This undoubtedly 'gets some work out of the men.' But the too frequent consequence, with students who take their work seriously, especially with graduates, is that they have no time for anything but to get up their lectures and prepare their theses. Any parallel reading by the side of their lectures they find impracticable. But one of the best things a student can do is just to read intelligently. Certainly the graduate students, if not the undergraduates, would sometimes be the better for being left more to themselves.

These are, however, relatively minor matters. A good deal could be said about that corner-stone of Harvard academic policy, the 'elective' system. I must confess that I have hitherto failed to see the advantage of the completely elective plan (for any but exceptional students) over the plan of 'groups,' or 'triposes,' or 'schools,' with some degree of internal elasticity to suit particular tastes. That the elective system is an improvement on the old compulsory curriculum is likely enough; but I do not know that any great American university has ever yet fairly tried the group arrangement. This, however, is too large a subject for the end of a paper, and I hurry on to my last point.

Of all the educational agencies at Oxford, Oxford itself is the most potent.

> That sweet city, with her dreaming spires;
> She needs not June for beauty's heightening.

Harvard, indeed, is truly 'fair' at Commencement, and in the evening lights the Yard has always a sober dignity. But Harvard in the daytime sadly needs May or October for beauty's heightening. The disadvantages of youth and climate may not be altogether surmountable; yet Cambridge surroundings could doubtless be made more comely and restful with comparatively little trouble. There must be a certain

atrophy of the æsthetic sense when luxuriously furnished dormitories have no difficulty in securing tenants though they face rubbish dumps, when rowing-men can practise with equanimity beneath a coal-dealer's mammoth advertisement, and when the crash and jangle of street-cars are permitted to destroy what little remains of the quiet of the Yard. What is to be desired for every student—most of all for those from homes of little cultivation—is that he should live in the presence of grace and beauty and stateliness. The lesson of good taste cannot be learnt from lectures, and is imbibed unconsciously. Here we must turn to our masters, the Corporation, and to the worshipful benefactors to come. Is all the thought taken that might be taken, all the pressure used that might be exerted, to increase the amenity of the neighbourhood? And, further, is it utopian to imagine that some benefactor will yet arise who will enable Harvard to imitate the noble example of Yale, and erect dormitories that shall delight the eye? Is it too much to hope that the university may soon be enriched with at least one more building such as Memorial Hall? For many a Harvard student his daily meals in Memorial Hall, in that ample space, beneath the glowing colours of the windows and surrounded by the pictures of the Harvard worthies of the past, constitute the most educative part of his university career, though he may not know it. Only half the students can now be brought within this silent influence. A second dining-hall, of like dignity, is perhaps the most urgent educational need of Harvard, and the need most easily supplied.[1]

[1] [I leave this sentence, for obvious reasons, in spite of the recent erection of Randall Hall. The desirability of a large infusion of other than immediately utilitarian elements in the policy of the Corporation is emphasised, I think, by the increasingly evident tendency towards social segregation in the student body. The English reader who desires to know more of the atmosphere of the greater American universities may be referred to Mr. Bliss Perry's article on 'The Life of a College Professor' in *Scribner's Magazine* for October 1897; while the American reader who is interested in Oxford may with advantage consult Mr. F. C. S. Schiller on 'Philosophy at Oxford' in the *Educational Review* for October 1899.]

SCHOLARSHIPS,

AT OXFORD AND AT HARVARD[1]

THERE were few things which struck me more when I came to Harvard than the position—or rather the want of position—of the holders of scholarships in this University, as compared with the state of things to which I had been accustomed as an undergraduate and as a tutor at Oxford. The Oxford teacher is accustomed to find that most of the students of ability with whom he comes into contact are 'Scholars of their colleges:' they are marked out from their comrades by gowns of larger amplitude: and the first piece of information which a teacher receives of a man is that he is a Scholar of such and such a college—a circumstance regarded as creditable in every case, and peculiarly creditable when the college is one of intellectual distinction. In the University Calendar (which corresponds to the American Catalogue), the list of the scholars of each college is printed after the list of fellows and before that of commoners (or undergraduates 'not on the foundation'); in the chapel the scholars have their own special place, and in many colleges wear surplices on Sunday like the Fellows. From the ranks of the Scholars, with the rarest exceptions, is derived in the course of years the teaching force of the university—college tutors and university professors and readers; they contribute most of the upper masters to the great schools; and the most successful among these, becoming head-masters, acquire a social dignity unknown to their profession in America. And when

[1] [The *Harvard Monthly*, January 1900.]

a man of any sort of distinction dies in England, if he happens to have been a Scholar of his college in his youth, as is often the case, that is a fact which no newspaper editor would dream of omitting from the obituary notice.

I need hardly say that I did not find the 'holders of scholarships' at Harvard anything like so conspicuous, so marked out from the rest of the undergraduates. I found that most of the undergraduates of ability with whom I came into contact did not hold scholarships; that many men held scholarships who were ill-educated and stupid, however well-meaning; and once or twice, when I was very new to the place, and happened to ask a man whether he held a scholarship, the question was received with surprise, and, if I am not very much mistaken, with a certain annoyance.

The editors of the *Harvard Monthly* seem to think that some explanation of this striking contrast may be of interest to their readers; and their request must be my apology for what follows. But let me make it plain at the outset that my praise of the English system does not necessarily involve condemnation of the American. It could readily be shown, if there were opportunity, that each is bound up with the social organisation and social ideals of the country to which it belongs; and I fully recognise the inestimable benefits which Harvard scholarships have conferred upon very many individuals, and through them upon the community. Moreover, the contrast with which I started would perhaps be just a little misleading if applied to English academic life as a whole in comparison with American. What I have said of Oxford would, I am told, require some modification for Cambridge; and even in some Oxford colleges there are certain 'exhibitions' (i.e. scholarships of small amount), which are bestowed on deserving persons of no very marked intellectual attainments. Still the contrast with Oxford remains visible enough, and to that I shall confine myself.

The fundamental explanation is to be found in the fact that at Oxford the scholarships are thrown open to general competition by all comers, without regard to the pecuniary means of their parents. Let me add at once that

'appointments' are not made as in American universities for one year only, but as a rule for four years—in practice, if not always in theory. Each college announces a year beforehand the date of its scholarship examination, and the schools send up most of their cleverest boys for one or more of the competitions. I suppose a duke or a millionaire might feel some scruple about his son's taking a scholarship; but the duke or millionaire has probably but rarely any occasion to perplex himself with the case of conscience. Very occasionally a wealthy parent who wishes that his clever boy should enjoy the distinction of a scholarship privately declines or repays the allotted stipend. With these quite unimportant exceptions, the scholarships are freely competed for and gained by representatives of all social classes; and this has come to be so much a matter of course in England that I do not remember ever to have heard it criticised. The highest dignitaries of the church, country squires, Her Majesty's judges, headmasters of great schools, lawyers with large practices, popular physicians, celebrated artists, are all overjoyed when their sons win scholarships at a famous college. Dr. Arnold had been headmaster of Rugby twelve years when Matthew was elected at Balliol. Among the Balliol scholars a little junior to me was the son of the great violinist Joachim. When I was in England last year, the son of my old history tutor at Balliol, Mr. A. L. Smith, one of the best-known of Oxford dons, was elected to a scholarship at his father's college. As soon as the announcement appeared in the papers, everybody in Oxford went about making pretty speeches about the appropriateness of the distinction. But if my son were ever to present himself as a candidate for a Harvard scholarship, I should certainly be referred to p. 484 of the Catalogue, and the severe words: 'A student who is not in need of aid cannot honourably apply for a scholarship.'

Now I am perfectly aware how absurd the Oxford usage invariably appears to the common-sense American when he first hears of it. What! spend a large part of the income of a college in stipends to students whose fathers are perfectly well able to pay for them themselves! But this is not

yet a logical world; and many a comical absurdity has its practical advantages. And the Oxford system has two most important results. In the first place, it prevents the scholarship from being associated with poverty, or with the defective breeding which unfortunately poverty too often brings with it. When most of the scholars of a college are just as much 'gentlemen' in the conventional sense of the word, and many come from the same great schools, as other undergraduates, the holding of a scholarship cannot of itself involve any social stigma. I do not for a moment wish to imply that such a stigma is involved in America. I know how indignantly, and with what justice, this would be denied. But it certainly would be the case in England, if scholarships were restricted to men 'in indigent circumstances.' If any one is inclined to shake his head, and blame or lament English snobbishness, I can only say that I also would make English society something very different from what it is, if I had the making of it. Meanwhile, the 'indigent' student who gets a scholarship at Oxford—and every year quite poor men do win scholarships—receives an amount of social esteem which no other system could there secure for him. He is known by all to have won his place by his brains, in a keen competition with men who have enjoyed every social advantage, and he is respected accordingly.

A word of further explanation, however, is necessary. The amount of a scholarship is usually a good deal larger than in America. Four hundred dollars is the usual amount, and this goes somewhat further in England than the like sum over here. And, then, many of the men who win scholarships at the colleges bring with them also scholarships from their schools, tenable at the university; three hundred dollars is a common amount. Thus every year sees the arrival in Oxford of a number of quite poor men, sometimes from the very humblest classes, who combine with first-class abilities (so far as any human tests can ascertain) the enjoyment of an income which enables them to dress like their associates, to have comfortable rooms, and to give all their working time for four years to the studies of the place. The

fact is that if a man does not see his way to pay his expenses at the university without 'outside work' in term time, he does not come. The man who is 'working his way through college' is almost an unknown figure in Oxford. Many a man in America and Scotland has in this manner won an education for himself with a persistence and a self-denial which have done honour to human nature. And yet I have received circulars from Harvard students asking my help—practically, my alms—in ways of earning a livelihood which have made me blush for the university. I think I would rather that my son did not go to college at all than that he should go on such terms.

The second good result of the Oxford system is that it gives the schools something to work for incomparably higher than the examinations which correspond to the American entrance examination. 'Fitting for college' in America is apparently a synonym for preparing men to satisfy the 'entrance requirements.' When, as is now occasionally the case, an intelligent boy taught at a good school is 'ready for college' at sixteen or seventeen, as he ought to be, neither his masters nor his parents know what to do with him for a year or even two. In the English schools, on the other hand, it may be said with substantial accuracy that the object is to prepare boys to win scholarships, and that incidentally, and on the road to this, the average boy is got ready to satisfy the requirements of mere entrance. The announcements in the newspapers of elections to scholarships invariably give the name of the schools from which the several boys come; and to be successful in getting scholarships with your boys is one of the surest ways to make the reputation of a school. Clifton, under Dr. Percival, the present Bishop of Hereford, and the City of London School, under Dr. Abbott, the well-known New Testament critic, are brilliant cases in point. I know what can be said of the iniquity of introducing ideas of competition into education: when I left Oxford I was myself in the full current of reaction against it. But one cannot help seeing the unfortunate results of the lack in America of any effective educational

ideals for the clever boy other than those set before the average boy; and, after all, boys are not so sensitive and nervous as high-minded theorists sometimes imagine.

It is curious that at the very time when educational reformers in England are busily occupied in completing the scholarship system by introducing its principles into secondary education, and so providing a 'ladder from the board school to the university,' the state of affairs in regard to 'pecuniary aid' in the American colleges should be calling forth expressions of concern from the most eminent academic authorities. I have certainly not had the experience which would justify me in expressing any very strong opinion on the subject; and I should be sorry if any one supposed that I advocated the wholesale 'introduction of the English system.' But I have had the honour to serve for two or three years on the committee for undergraduate scholarships in Harvard College, and there are one or two impressions which have been gradually left on my mind, and which those who know more about the difficulties of the situation may take for what they are worth.

My impression, then, in the first place, is that, as things are at present, there are too many scholarships and grants of aid in Harvard College. By 'too many' I mean that some time before the committee gets to the bottom of its list of assignments it is obliged to content itself with the most meagre evidence of knowledge or ability on the part of the beneficiaries. There are not enough 'indigent' men of ascertainable intellectual power applying for scholarships to make up the number. Another impression is that the scholarships are of too small amount; that there are far too few of four hundred dollars and far too many of one hundred and fifty or less. It is surely a wasteful employment of a nation's most valuable resources—the intellectual powers of its citizens—to compel men who ought to be giving to their studies the whole of the time not needed for rest or recreation to expend half their energies in scraping together a livelihood by typewriting. For this reason I cannot agree with the proposition of President Hadley in his Inauguration Address

—if I understood him rightly—that the wise policy of the university is to aim at the multiplication of the means of self-maintenance open to indigent students. If a man is worth helping at all, I cannot but think that he is worth helping adequately. Certainly I know of no more pathetic figure than the gaunt and ill-clad student who 'can't get more than C because he has to do so much outside work.' At Harvard, as elsewhere, there are doubtless difficulties in the way of any far-reaching change; though I should have thought, by the accumulation of two or more scholarships on one head or otherwise, the obstacles could be surmounted. But if only some little progress could be made in this direction, while the total amount of pecuniary aid remains unchanged, this would of course *pro tanto* diminish the number of scholarships, and so enable, or rather compel, the appointing committee to insist on a tolerably satisfactory standard of attainment on the part of every one of the recipients.

My last suggestion must be even more tentative and hesitating. When I served on the scholarship committee, it was, I think, only our well-grounded confidence in the acumen of the dean of the college, our chairman, which gave us any reason, in many cases of 'Price Greenleaf aid,' for believing in the wisdom of our awards. The dean seemed to possess an unerring instinct as to just how much was meant by a testimonial to 'exceptional ability' from a master who had never sent up a boy before, accompanied by a commendatory letter from the young man's mother's most intimate lady friend. I have wondered since whether the university can count upon having acumen of this order always at its service, and whether it would not be possible to make use of the entrance examinations to provide data more easily interpretable. If the grants of Price Greenleaf aid were raised in amount and lessened in number; if pains were taken to make them known in every part of the country, and examinations were held in every state of the union, it is at any rate possible that the competition would be more keen and fruitful than at present. Examination is an evil, but

a necessary one; and it seems to me that in this connection, as in others, the university may find itself led to make more use of it, and to treat it more seriously.[1]

[1] [In the few months that have elapsed since the above was written, a Fellowship has been founded in the Department of Classics in the award of which it is expressly laid down by the donor that no regard shall be paid to the pecuniary needs of candidates, and also a Scholarship in the Department of Economics which is not only subject to the same condition, but is assigned after a written examination. It is to be hoped that future endowments will follow these precedents. If there are any further gifts for the benefit of indigent students, they should take the form of increasing the present stipends in amount, and not in number. But there are many better ways of assisting poor students than by the multiplication of scholarships restricted to poverty. Among these may be mentioned the provision of duplicate copies of expensive text-books in the library, and the adornment of Randall Hall.]

THE UNIVERSITY OF FRIBOURG IN SWITZERLAND[1]

The tourist in Switzerland can hardly have failed to observe how very conspicuous a place has been given this summer in the bookshop windows to certain pamphlets about the new university at Fribourg. If he has read the newspapers, he will also have come across occasional obscure intimations as to what the German universities are going to do to mark their sense of Fribourg's enormities. The matter is worth looking into.

In 1889 the great council of the Canton of Fribourg voted to establish a university. To this resolution, doubtless, diverse motives contributed, foremost among them cantonal pride. But religious zeal also played a large part. All the other universities of Switzerland—Basel, Bern, Zürich, Geneva, Lausanne—are in Protestant cantons; and we cannot be surprised that the people of Fribourg, one of the chief strongholds in Switzerland of the Roman Catholic faith, should be unwilling to subject their sons to what they naturally regard as dangerous influences. The faculties of theology, besides, at all these universities are either Protestant or Old Catholic; and Roman Catholic Switzerland has for some time been obliged to content itself, for the education of its theologians, with ill-equipped episcopal seminaries. Fribourg saw its chance to become the intellectual centre of Roman Catholic Switzerland. For a little state, with a population of but 120,000, to undertake to have a

[1] [A letter from Switzerland to the *Nation*, September 29, 1898.]

university of its own was, indeed, a bold thing—perhaps an unwise thing; nevertheless, the Government set to work. An initial capital of two and a half million francs was provided by the conversion of the existing public debt; the cantonal law school was enlarged, and made into a faculty of jurisprudence; some nineteen scholars were invited from other parts of Switzerland, from France, and, above all, from Germany, to form a faculty of philosophy, and in November 1889 the university was opened. Next year the cantonal Government made an arrangement with the General of the Dominican order, in accordance with which some eight or nine members of that order were sent to Fribourg to form a theological faculty, and were received as colleagues by the professors of the other faculties. Finally, in 1896, a faculty of natural science, composed, like that of philosophy, of scholars drawn from Germany and other countries, was called into existence; supported partly from the profits of the state bank, partly from those of the state electric works. Thus in seven years a teaching force of some sixty persons has been brought together, while the concourse of students was steadily increasing. From 30 in 1889-1890, the number had grown in 1897 to 301—127 from Switzerland, 112 from the German Empire, 24 from Bulgaria, 10 from Russia, and 28 from other countries. The canton is bilingual—almost equally divided between a French-speaking and a German-speaking population—and not only have some of the lectures in the university been given in French and some in German, but the Dominican fathers have given their instruction in Latin. The cantonal Government might fairly congratulate itself on its success; it has created, it would seem, an institution well suited to the peculiar conditions of the canton, and it has given it a certain cosmopolitan character which attracts students from far beyond the cantonal boundaries.

Unfortunately, however, the internal history of the university has been by no means so encouraging. The relations of the members of the professorial body to one another and still more to the Director of Public Instruction, representing the Fribourg government, have been marked almost from

the first by a long series of misunderstandings and contentions, growing more and more acute until they have culminated in the present crisis. In December of last year eight of the professors, all of them 'Reichsdeutschen,' i.e. subjects of the German Emperor, resigned in a body; the educational journals of their fatherland have for the last few months been filled with their grievances; and the 'Denkschrift' (Munich: Academischer Verlag), in which they have set forth their version of the circumstances, has reached its second edition.

When we come to read the 'Denkschrift' we find, if we may trust its narrative of events, that the university of Fribourg has been a sort of cockpit in which has been fought out anew almost every one of the battles that have engaged the attention of the academic world from the early days of the university of Paris to the most recent state foundation in the American West. The interest of the pamphlet is not diminished by its authors' ignorance of this—so to speak—microcosmic significance of their experience. The Director of Public Instruction, with the best intentions in the world, authorising promises to win professors which he is afterwards unable to perform, and so little acquainted with the best university traditions that he is continually rubbing the teaching body the wrong way by apparent or real interference with academic autonomy—how familiar a modern figure he is! The suspicion, whether well or ill founded, which the lay professors of Fribourg, all good Roman Catholics, be it observed, felt towards their Dominican colleagues—how it reminds us of many a long struggle in the mediæval universities against the pretensions of the religious orders! Just below the surface we seem to discern the everlasting problem how to harmonise the claims of ecclesiastical authority with those of scientific independence. And, finally, the racial antagonisms within the professorial body which even the neutral atmosphere of Switzerland could not dissipate, sound like faint echoes from the halls of the university of Prague, whether in Huss's time or our own.

The reader is so likely to have his mind made up on the

several issues apparently involved that he is pretty sure to be carried away by the 'Denkschrift,' and to take its authors at their own valuation, as deserving champions of the cause of science and academic independence. But it is fair to add that the 'Antwort' (Fribourg: Universitätsbuchhandlung, Veith) prepared by the Government, puts a good many of the circumstances in a somewhat different light. 'Six of one and half a dozen of the other' is a dull verdict, perhaps; and unless one could call for further evidence and cross-examine the witnesses, one would hardly be justified even in saying so much as that. But we cannot but suspect that the band of young German scholars, most of them with little previous experience, who had been brought into the sleepy little Swiss town, scarcely suffered from an insufficient sense of their own importance. We may even conjecture that, in their dealings alike with the Dominicans and with their French colleagues, their conduct was not unfailingly characterised by modesty or consideration for others.

It would be wearisome to enter into the details of the controversy. A couple of incidents may be worth citing as examples of *gravamina*. The story of each is, at any rate, full of human nature, and the adequacy of the governmental explanation may be left as a problem for the reader.

The first is of a certain student who prepared for his doctoral thesis a history of education in the Canton. He took occasion, it appears, to narrate *inter alia* the scandalous ecclesiastical conditions which once prevailed in the Canton. The Dominicans got wind of this, and, according to their critics, sought to have the dissertation modified, just out of a stupid desire to cover up clerical ill-doing, no matter in what period, at any cost to scientific freedom. To this the Government replies that the publication of these scandals was likely seriously to annoy certain wealthy ecclesiastical corporations and certain wealthy families still established in Fribourg; that these had it in their power greatly to help or injure the young university; and that the dissertation might have been just as valuable a contribution to scientific history if it had shown a little more 'tact.'

The second incident illustrates the national antagonisms which, according to the same critics, the Director actually fomented. An association of German students in Fribourg held a *Commers* on the birthday of the German Emperor. One of the German professors proposed the toast of the emperor, and this was so ill received by a French lecturer present that he actually threw his glass under the table! The Director replies that the speech of the German professor proposing the toast dwelt so complacently on the superiority of the Germans to all the world as to be inevitably offensive to the non-Germans present. The French lecturer in question was polite enough to rise at the toast, but he was so excited that when he sat down he *accidentally* spilled his glass over the table-cloth and over the trousers of his neighbour! 'The great conspiracy of the French thus reduces itself to a tactless speech, a nervous listener, and a bespattered pair of trousers.' All this is solemnly set forth, together with the elaborate letter of apology and self-exculpation which the nervous Frenchman sent to his dean on the occasion. A pair of trousers has never, perhaps, symbolised so much international antipathy—unless when Mr. Balfour confiscated the garments of Mr. William O'Brien.

The places of the outgoing professors have been filled, and the work of the university will proceed. It is to be hoped that the cantonal authorities have received a lesson to go rather more slowly in the future; to take more care what promises their representatives make to the new comers, and to make up their minds just what sort of place they want their university to be. There are several ideals of a university, each good from its particular point of view, but not all compatible one with another. Let us add that when the authorities of the German universities have had time to digest the Director's 'Antwort,' they will probably not be in quite so great a hurry to boycott little Fribourg as the outgoing professors may have expected.

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